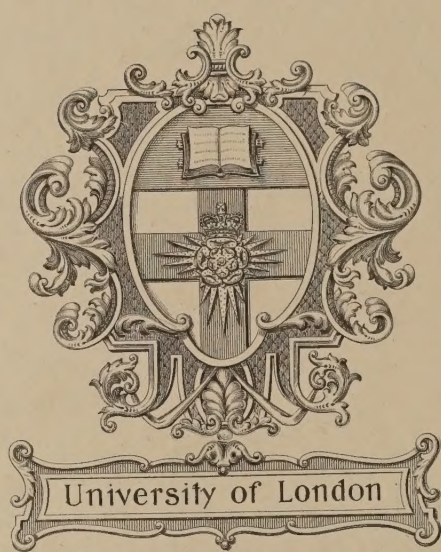
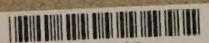






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R E P O R T S
FROM
C O M M I S S I O N E R S :
SIXTEEN VOLUMES.

— (14.) —

CHANCERY FUNDS COMMISSION;
HIGH COURT OF ADMIRALTY (IRELAND);
PATENT LAW COMMISSION.

Session
4 *February* — 29 *July* 1864.

V O L. XXIX.

1864.



REPORTS FROM COMMISSIONERS:

1864.

SIXTEEN VOLUMES:—CONTENTS OF THE

FOURTEENTH VOLUME.

N. B.—*THE* Figures at the beginning of the line, correspond with the N° at the foot of each Report; and the Figures at the end of the line, refer to the MS. Paging of the Volumes arranged for The House of Commons.

CHANCERY FUNDS COMMISSION.

- [3280.] REPORTS of HER MAJESTY'S COMMISSIONERS appointed to inquire into the CONSTITUTION of the ACCOUNTANT GENERAL'S DEPARTMENT of the COURT of CHANCERY, the FORMS of BUSINESS in use therein, and the provision for the Custody and Management of the STOCKS and FUNDS of the COURT - p. 1

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R E P O R T

OF

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

CONSTITUTION OF THE ACCOUNTANT GENERAL'S
DEPARTMENT OF THE COURT OF CHANCERY,

THE

FORMS OF BUSINESS IN USE THEREIN,

AND THE

PROVISIONS FOR THE CUSTODY AND MANAGEMENT OF THE
STOCKS AND FUNDS OF THE COURT.

Presented to both Houses of Parliament by Command of Her Majesty.



L O N D O N :

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

FOR HER MAJESTY'S STATIONERY OFFICE,

1864.

[3280]

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COMMISSION.

VICTORIA R.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To Our right trusty and right entirely beloved Cousin and Councillor, George Douglas, Duke of Argyll, Knight of the Most Ancient and Most Noble Order of the Thistle; Our right trusty and well-beloved Councillor, Thomas, Lord Kingsdown; Our right trusty and well-beloved Councillor, Sir George Grey, Baronet, Knight Grand Cross of the Most Honourable Order of the Bath; Our trusty and well-beloved Robert Wigram Crawford, Esquire; Our trusty and well-beloved Pearce William Rogers, Esquire; Our trusty and well-beloved William George Anderson, Esquire; Our trusty and well-beloved William Strickland Cookson, Esquire; and Our trusty and well-beloved Edwin Wilkins Field, Esquire, greeting:

Whereas We have deemed it expedient for divers good Causes and Considerations, that a Commission should forthwith issue to inquire into the Constitution of the Accountant General's Department of the Court of Chancery, the Forms of Business in use therein, and the Provisions for the Custody and Management of the Stocks and Funds of the Court, and to suggest Improvements in the said Matters, with especial view to the Advantage of the Suitors, and to the Safety, Convenience, Economy, and Dispatch in the Transaction of the Business of the Court.

Now know ye, that We, reposing great Trust and Confidence in your Zeal, Discretion, and Integrity, have authorized and appointed, and by these Presents do authorize and appoint you the said George Douglas, Duke of Argyll, Thomas Lord Kingsdown, Sir George Grey, Robert Wigram Crawford, Pearce William Rogers, William George Anderson, William Strickland Cookson, and Edwin Wilkins Field, or any Three or more of you, to inquire into the Constitution of the Accountant General's Department of the Court of Chancery, the Forms of Business in use therein, and the Provisions for the Custody and Management of the Stocks and Funds of the Court, and to suggest Improvements in the said Matters with especial view to the Advantage of the Suitors, and to the Safety, Convenience, Economy, and Dispatch in the Transaction of the Business of the Court.

And for the better Discovery of the Truth in the Premises, We do by these Presents give and grant unto you, or any Three or more of you, full Power and Authority to obtain Information thereupon by the Examination of all Persons most competent by reason of their Situation, Knowledge, and Experience to afford it; and also by calling for all Documents, Papers, and Records which may appear to you calculated to assist your Researches, and to promote the Formation of a sound Judgment on the Subject.

And Our further Will and Pleasure is, that you do within One Year after the date of this Our Commission, or sooner if the same can reasonably be done (using all Diligence), certify to Us in Our Court of Chancery, under the Hands and Seals of you, or any Three or more of you, what you shall have done in the Premises.

And We do further will and command that this Our Commission shall continue in full Force and Virtue, and that you Our said Commissioners, or any Three of more of you, shall and may from Time to Time proceed in the Execution thereof, and of every Matter and Thing therein contained, although the same be not continued from Time to Time by Adjournment.

And for your further Assistance in the Execution of these Presents, We do hereby authorize and empower you to appoint a Secretary to this Our Commission, whose Services and Assistance We require you to use from Time to Time as occasion may require.

Given at Our Court at St. James's, the Fifteenth Day of February 1861,
in the Twenty-fourth Year of Our Reign.

By Her Majesty's Command,
G. C. LEWIS.

[By Commission dated the 22nd of April 1861, the Vice-Chancellor Sir William Page Wood was appointed a Commissioner.

The duration of the Commission was subsequently extended.

In July 1863, Sir George Grey resigned.

By Commission dated the 12th of November 1863, the duration of the Commission was extended for the period of six months from that date.]

COMMISSION

EXTENDING THE DURATION OF THE CHANCERY FUNDS COMMISSION.

[12TH NOVEMBER 1863.]

VICTORIA R.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To Our right trusty and right entirely beloved Cousin and Councillor George Douglas, Duke of Argyll, Knight of the Most Ancient and Most Noble Order of the Thistle; Our right trusty and well-beloved Councillor Thomas Lord Kingsdown; Our trusty and well-beloved Sir William Page Wood, Knight, a Vice-Chancellor; Our trusty and well-beloved Robert Wigram Crawford, Esquire; Our trusty and well-beloved Pearce Williams Rogers, Esquire; Our trusty and well-beloved William George Anderson, Esquire; Our trusty and well-beloved William Strickland Cookson, Esquire; and Our trusty and well-beloved Edwin Wilkins Field, Esquire, greeting:

Whereas We did, by Commissions under Our Royal Sign Manual, bearing Date respectively the 15th Day of February, and the 22nd Day of April 1861, in the 24th Year of Our Reign, appoint you (together with Our right trusty and well-beloved Councillor Sir George Grey, Baronet, since resigned,) to be Our Commissioners to inquire into the Constitution of the Accountant General's Department of the Court of Chancery, the Forms of Business in use therein, and the Provisions for the Custody and Management of the Stocks and Funds of the Court, and to suggest Improvements in the said Matters with especial view to the Advantage of the Suitors and to the Safety, Convenience, Economy, and Dispatch in the Transaction of the Business of the Court.

And whereas We have been pleased from Time to Time to extend the Duration of the said Commissions.

And whereas it hath been humbly represented unto Us that it would be expedient to further extend the Period in which you Our said Commissioners were required to make your Report.

Now know ye, that We have extended, and by these Presents do further extend the Duration of Our said Commissions for Six Calendar Months from the Date hereof, for the Purpose of enabling you Our said Commissioners to complete the Inquiries thereby required to be made and to make your final Report thereon.

And Our further Will and Pleasure is, that upon due Examination of the Premises therein mentioned you do within the Space of Six Calendar Months (or sooner if the same can reasonably be done) certify to Us in Our Court of Chancery, under the Hands and Seals of you or any Three or more of you, what you shall have done in the Premises.

Given at Our Court at Saint James's the 12th Day of November 1863, in the 27th Year of Our Reign.

By Her Majesty's Command,
G. GREY.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN HER HIGH COURT OF CHANCERY.

WE, the undersigned members of Your Majesty's Commission appointed to inquire into the constitution of the Accountant-General's Department of the Court of Chancery, the forms of business in use therein, and the provisions for the custody and management of the stocks and funds of the Court, and to suggest improvements in the said matters, with especial view to the advantage of the suitors, and to the safety, convenience, economy, and despatch in the transaction of the business of the Court, humbly certify to Your Majesty that we have proceeded in the discharge of the duty committed to us, and are now prepared to lay before Your Majesty the result of our inquiries, and the recommendations to which we have agreed.

Our first step, in obedience to Your Majesty's commands, was to make ourselves acquainted with the business transacted in the Accountant-General's department. In this we were much assisted by the professional experience of three of our colleagues, who prepared a most useful paper on the subject, which was afterwards submitted to the Accountant-General, and received his written comments. We were also furnished by the Accountant-General and by the Bank of England with detailed statements respecting the work performed for the Chancery suitors in the Accountant-General's Office in Chancery Lane, and in the Chancery Office of the Bank of England. Having thus ascertained the present practice, we thought it expedient to communicate with the Incorporated Law Society and the Metropolitan and Provincial Law Association. These societies number among their members all the most eminent solicitors both in London and in the country, and they have always taken an active part in the reforms of the Court of Chancery, representing as they do the interests of the suitors as well as those of the general body of solicitors. Accordingly, we transmitted to each of these societies copies of the papers which had been laid before us, and requested them to favour us with their views in reference to any matters of complaint which might exist in connexion with the Accountant-General's department. In reply we received much important information and many valuable suggestions, a summary of which will be found in a subsequent part of our Report. In weighing the recommendations submitted to us by these societies, and in preparing our Report, we have had the assistance of the written opinion of the Accountant-General on every proposed change; we have given full consideration to the various returns and documents presented to us, copies of which will be found in the Appendix; we have availed ourselves of the labours of former Commissions; and as several of Your Majesty's Commissioners have had personal experience in the business transacted in the various departments of the Court of Chancery, the result of that experience has been communicated to the Commissioners at large in the course of our deliberations.

Course of inquiry and proceedings of the Commissioners.

It is proper to mention that our investigation has been conducted entirely by means of written statements. This course appeared to us at the outset best calculated to ensure accuracy, and as the objections which were brought to our notice in the course of our inquiry were objections to the system, and not to the persons by whom the system was worked, it seemed to be neither necessary nor desirable to examine any witnesses orally.

Oral evidence unnecessary.

PART I.

CONSTITUTION OF THE ACCOUNTANT-GENERAL'S OFFICE, AND FORMS OF BUSINESS IN USE THEREIN.

CHAPTER I.—ORIGIN OF THE ACCOUNTANT-GENERAL'S OFFICE.

In former times the several Masters of the Court of Chancery had the custody of all moneys and effects deposited in Court in the suits referred to them, and the Usher took charge of any property brought into Court in suits which had not been referred to one of the Masters. The Usher and the Masters were responsible for what they received, and were bound to distribute the property entrusted to them in compliance with the Orders of the Court. But in the meantime they employed the money in their hands

Suitors moneys formerly deposited with the Masters and Usher. Trial of Lord Chancellor

Macclesfield,
State Trials,
vol. xvi.
Defaults of
the Masters.

for their own benefit. This practice continued until the failure of the South Sea Scheme, when it was found that several of the Masters were unable to comply with the directions of the Court. Stringent inquiries were made. The matter was taken up by Parliament as well as by the Court of Chancery, and various measures were devised to remedy the past and provide for the future. We do not propose to describe the means by which the Masters' defaults, amounting to upwards of 100,000*l.*, were eventually made good. They will be found detailed in the Report upon the Concentration of the Courts of Justice. Our business is to explain the precautions adopted in order to prevent the recurrence of so great an abuse.

Precautions
taken in con-
sequence ;
Masters
directed to
procure
chests.
Sanders
Chancery
Orders,
p. 465.

In the first instance each Master was directed by an Order of the Lord Chancellor of the 17th of December 1724, to procure and send to the Bank of England a chest with one lock and hasps for two padlocks, the key of the lock to be kept by the Master, and the key of one of the padlocks by Mr. Smith and Mr. Malthus, two of the Six Clerks (in Chancery), or one of them, and the key of the other by the Governor, Deputy Governor, or Cashier of the Bank. Each Master was ordered to deposit in his chest all moneys and securities in his hands belonging to the suitors, under the inspection of the persons therein named, and the chests were then to be locked up and left in the custody of the Bank, and to be so kept that the Masters might have easy access thereto, in order to comply with the Orders of the Court.

Sanders
Chancery
Orders,
p. 499.

This plan did not last long. By the rules of the Bank of England the vault where the chests were kept could not be opened unless two of the Directors were present with their keys ; and it was soon found that great trouble, difficulty, and expense would be occasioned to the suitors by requiring the attendance of the Master, one of the Six Clerks, the Cashier of the Bank and two of the Directors whenever any of the chests had to be opened to deliver out the effects of the suitors, or to receive the interest thereon. Accordingly on the 26th of May 1725 a General Order was made by the Lords Commissioners for the custody of the Great Seal, which directed that the money and effects of the suitors should be taken from the Masters' chests, and given into the custody of the Bank. An account was to be kept at the Bank and also at the Chancery Report Office *causewise*, and any dealing with the suitors' money was to be certified to the Report Office. By another General Order, made by the Lord Chancellor on the 4th of November 1725, the plan was extended to moneys and effects in the custody of the Usher of the Court. These General Orders were incorporated in and confirmed by the Act of 12 Geo. 1. c. 32., and still remain in force, with this exception, that since the year 1852 the Account directed to be kept at the Report Office has been discontinued.

Order of 26th
May 1725.

Order of 4th
Nov. 1725.
Sanders
Chancery
Orders,

It will be necessary to enter somewhat minutely into the regulations prescribed by the General Orders of 1725 and the Act of 12 Geo. 1. c. 32. A careful perusal of those regulations will serve to explain many forms still in use in the Accountant-General's Office, which have lost much of their significance by the abolition of the Account formerly kept at the Report Office. And it will be seen by a comparison of the original regulations with the present practice that, notwithstanding the ample powers vested in the Court of Chancery by the Act of Parliament, few simplifications or improvements have been introduced since the office was first established.

The Order of the 26th May 1725 directed,—

Masters, &c.
to open their
chests and
make a
schedule of
all bonds,
&c., and de-
liver them
over to the
Bank.

That the Masters with the Six Clerks should go to the Bank and open their chests, and that the Masters, together with the Six Clerks and one of the cashiers of the Bank, should make a schedule of all the bonds, tallies, orders, and effects, and cash deposited in their chests, and should deliver over the same to the Bank, and that each Master should receive a certificate of the receipt thereof under the seal of the Bank, and that such certificate should be carried by each Master to the Report Office and there filed ; and that such effects and cash should be entered *causewise* in books to be kept by each Master in the Report Office ; and that likewise there should be entered in such books, *causewise*, the several stocks of which the Masters had already declared trusts in the Company's books, and that an exact duplicate of such books should be kept with the Bank by each Master :

Bank to re-
ceive the in-
terest on
such bonds.

That the Bank should receive all interest due on such bonds, tallies, and orders, and the dividends of all such stocks in the Company's books, of which the Masters had declared trusts ; and that the Masters should empower one of the cashiers of the Bank to receive the same, and such interest and dividends should be entered in the Masters' accounts at the Bank in the said books, and that the Masters should at the end of every term draw out of their books at the Bank an account in writing of the interest and dividends so received and entered in their accounts, and enter the same *causewise* in their books at the Report Office :

- That when any money or securities at or after the hearing of any cause should be taken under the care of the Court, the Master named by the Order should direct the payment of such money, or the delivery of such securities into the Bank, and upon payment or delivery thereof the moneys and the securities should be entered in the Masters' accounts kept with the Bank :
- That when any money should be paid, or securities delivered into the Bank, the party so paying such money, or delivering in such securities, should take a certificate from one of the cashiers of his paying and delivering in of the same, and of their being placed to the proper Master's account; and should carry the said certificate to such Master, who should thereupon make his report of the payment of such money or delivery of such securities, and file the same at the Report Office; and that the clerk of the said office should enter the same in the Master's book causewise, and place the same to the proper account of the Master there :
- That when any money should be directed to be laid out on Government securities, the species of the particular securities should be mentioned in the Order; and in case any of them should consist of East India bonds, South Sea bonds, or Exchequer tallies and orders, the same should be delivered in at the Bank, of which delivery a certificate should be given to such Master by one of the cashiers, and proper entries thereof should be made in the account of the Master, and if any such securities should consist of stock in any of the said Companies, such stock was to be transferred to such Master, who should make a declaration of trust in the Companies' books, and should take a certificate thereof from the proper officer of the Company, and likewise enter the same in his book at the Bank, that the Bank might receive the dividends thereupon, and should also make a report of all such securities, which certificate and report should be filed at the Report Office, and therein specify the same dates and numbers of such bonds, tallies, and orders, and quantities of stock, and of the time of the transfer of such stock to him, and the clerk of the Report Office was to enter the dates, sums, and numbers of the bonds, tallies, and orders, and quantities of stock in such report mentioned in the proper Master's books kept there :
- That when any securities deposited at the Bank should be directed by order of Court to be delivered out, the Registrar should certify to the Master what security was to be delivered out, together with the numbers, dates, and sums of such securities, and the name of the cause wherein the same was to be delivered out; which certificate the clerk in Court or solicitor in the cause should deliver to the Master, who should countersign the same, and such certificate so countersigned should be a proper authority for the Bank to deliver over such security, and enter the delivery of such securities in the Master's accounts causewise: And it was thereby declared to be the duty of the Master to supervise such entry, and to certify the same into the Report Office, there to be filed :
- That when any stock in any of the Companies' books should be ordered to be transferred by any of the Masters to the suitors, the Registrar should certify under his hand to the Master what stock to transfer and to whom, which certificate the clerk in Court or solicitor in the cause should carry to the Master, who should within one week, or at the then next opening of the Companies' books, attend in person, and deliver such certificate to the proper officer of such Company, and transfer such stock, or give sufficient authority to some other person so to do :
- That such certificate should be an authority to the respective Companies to permit the said Master, or other person lawfully authorized, to transfer such stocks, of which transfer the Master was ordered to make his report, and procure the same to be filed in the Report Office; and the transfer of such stock should be certified by the Master to the Bank, in order that such stock might be discharged out of the account of the Master in his book there :
- That when any money belonging to the suitors of the Court, received by the Bank pursuant to any order, should be directed to be paid by order of the Court, the clerk in Court, or solicitor in the cause, should carry the order to the Master, who should forthwith make a certificate thereof, which certificate such clerk or solicitor should forthwith file in the Report Office; and that the Master should by note under his hand draw on the Bank for such money as should be directed to be paid, upon cheque paper fairly written and signed by the Master, which note of the Master should be carried to the Report Office, and an entry made thereof in the Master's book there, and *Intratur* written thereon, and signed by the Registrar; which note so entered and signed should be sufficient authority to the Bank to pay such money to the person mentioned in such note, or to such

When money, &c. taken into the care of the Court, Master to direct it into the Bank.

The party paying to take a certificate from a cashier and deliver it to the Master.

Money directed to be laid out in Government securities.

When securities are to be delivered out of the Bank, Registrar to certify.

When stock is to be transferred to suitors, Registrar to certify.

His certificate sufficient for Masters to transfer.

How the money is to be paid to the suitors.

person as he by endorsement should order to receive the same, as likewise to write off the same from such Master's account there; but when any sum of money should be directed to be paid to any suitor out of such money so to be received by the Bank for interest, or maintenance, the Master should by note under his hand upon cheque paper, without any certificate, draw on the Bank for the same; and such note, being signed by the Master and entered in the Report Office, and countersigned by the Registrar, should be a proper authority for the Bank to pay the same:

Masters, the first day of term, to give an account to Lord Chancellor's Secretary of moneys transferred since last account.

That every Master should, on the first day of every term, give an account in writing to the Secretary of the Lord Chancellor of all moneys and securities, or stocks that they have issued or transferred in the respective causes before them since their last account, together with the dates of such orders, and that the Masters should diligently, from time to time, compare such account with their books kept at the Report Office, and at the Bank.

The Order of the 4th of November 1725 directed,—

Masters to bring in accounts of all moneys, &c. for which they were answerable not included in former accounts, and deliver them over to the Bank, &c.

That all the Masters should forthwith bring in, and leave with the Registrar of the Court, complete accounts, home to the time of bringing in such accounts, of all moneys, securities, and other effects belonging to any of the suitors of the Court, in their hands, custody, or power, or for which they were answerable, and not included in any of their accounts formerly delivered into the Registrar's Office; and that all the Masters should forthwith, by schedule, deliver over to the Bank all sums of money, bonds, securities, and other effects in anywise belonging to the suitors of the Court, in their hands, power, or custody, or for which they were answerable, mortgages only excepted; and should also specify in such schedule the several annuities and stocks which each of them, respectively by himself or jointly with others, had in trust for any of the suitors, and that at the time of the delivery of such money and other effects such Master should receive from the Bank a certificate of the receipt thereof, and also of the specification of the said annuities and stocks, under the seal of the Bank; and that such certificate should be carried by each Master to the Report Office, and there filed; and that such sums of money, bonds, and other securities and effects of the suitors should be entered causewise in books kept by each Master in the Report Office, and in the Bank, and that the Bank should receive the interest and dividends of all the said securities and stocks, and also the interest and dividends due or to be due on all stocks and securities, whereof any of the Masters of the Court was or should be possessed in trust for the suitors of the Court, or had already declared, or should declare any trust for any of the suitors; and that each Master of the Court should empower one of the cashiers of the Bank to receive the same; and that from time to time such interest and dividends should be entered in the Master's accounts at the Bank; and that at least at the end of every term, but oftener if there were occasion, the Bank should certify causewise to each Master the several sums so received, respectively belonging to the suitors of the Court, under such Master's care and inspection, to the end that each Master might make like entries in the books kept by himself, and likewise deliver a copy thereof to the Clerk of the Report Office, who should forthwith cause the same respectively to be entered causewise in the Master's books at the Report Office: And as to mortgages, which any of the Masters of the Court had, singly by themselves or jointly with others, in trust for the suitors, the particular trust should be endorsed on or inserted in the body of the deed; and as to all future mortgages, the particular trusts should be inserted in the body of the deed; and all interest and principal to be paid in on such mortgages should, by the party paying, be paid into the Bank, in manner and form therein-after directed concerning the payment of money into the Bank:

When money, &c. directed to be paid in, the Master to certify the date of the order, &c.

That all moneys and effects, either before, at, or after the hearing of any cause to be directed to be taken under the care of, or to be brought before, or delivered in, or paid to any Master of the Court, should not be brought before, delivered, or paid to such Master, but when any security, sum of money, or other effects were ready to be delivered or paid in, in obedience to any such order, the Master to whom the cause should stand referred, or to whom, or by whom, the delivery or payment was directed to be made, should, on application by the party interested, his clerk in Court, or solicitor in the cause, certify the date of such order, and the sum of money and other effects then to be paid or delivered in upon such order, and the name of the cause to the account of which the same was to be placed; and upon the said party's, or his clerk in Court, or solicitor's delivering

such certificate, and payment of such money, or delivering of such effects into the Bank, the same should be entered in the Master's accounts in the Bank :

That the note under the hand of the Masters by which they were to draw on the Bank should be limited to be paid within a month after date ; and if not paid within such time, the note should be void ; and that when such note should be carried to the Report Office there should be carried with it the order whereby such payment was directed to be made, and an entry should be made in the Master's book at the said office, not only of the said note, but also a memorandum that it was drawn by virtue of such order, and thereupon an *Intratur* should be made, and such other proceedings had, as in the Order of the 26th May prescribed :

Master's note to be limited to be paid within a month after date.

That when the Master should certify to the Report Office the entry in the Master's accounts at the Bank of the delivery out of securities, the clerk of the Report Office should make entries according to such certificate in the Master's books kept in that Office.

Clerk of the Report Office to enter in Master's books the delivering out of securities at the Bank.

That the same rules, methods, orders, and regulations directed and prescribed to be observed, performed and done by and to the Masters with respect to the moneys, stocks, bonds, mortgages, and other effects of the suitors of the Court, in their name, or under their inspection and care, should be in like cases, *mutatis mutandis*, observed, performed, and done by and to the Usher of the Court, with respect to the moneys, stocks, bonds, mortgages, tallies, orders, annuities, securities, and other effects of the suitors, in his name, or under his inspection or care.

Usher to observe like orders as the Masters.

The Act of 12 Geo. 1. c. 32., intituled, " An Act for better securing the Moneys and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and Endorsements thereon, as likewise Endorsements on the South Sea Bonds," after reciting the Order of the 4th November 1725, in which the Order of the 26th May 1725 is set forth verbatim, enacted, That the said two Orders be confirmed, and thenceforwards observed and kept, unless in such points as should be varied or changed by the High Court of Chancery, according as the Court should from the exigency or circumstances of affairs judge reasonable or proper, and proceeded as follows :—

12 Geo. 1. c. 32. Appendix, p. 141.

" And to the end the account between the suitors of the High Court of Chancery and the Bank of England may be more regularly and plainly kept, and the state of such account may be at all times seen and known, Be it further enacted by the authority aforesaid, That there shall be one person appointed by the High Court of Chancery to act, perform, and do all such matters and things relating to the delivery of the suitors' money and effects into the Bank, and taking them out of the Bank, and the keeping the accounts with the Bank, and all other matters relating thereto, as in and by the said recited orders, or either of them, are prescribed and directed to be done and performed by the Masters and Usher of the said High Court of Chancery ; which said officer so to be appointed shall be called the *Accountant-General of the Court of Chancery*, and shall hold such office during the pleasure of the said Court ; and an account shall be kept in his name with the Bank of England for and on the behalf of the suitors of the said Court of Chancery, in such manner as is directed by the said recited orders, with respect to the Masters of the said Court and the Bank ; and the same rules, methods, and directions as are prescribed by the said orders to the suitors, the Masters, Usher, and Bank, as to the delivering into and taking out of the Bank the moneys and effects of the suitors, and other matters therein contained, shall be observed by the suitors, the Bank, and the said Accountant-General, unless where the Court of Chancery shall, according to the exigency and circumstances of affairs, otherwise determine and appoint."

An Accountant-General of the Court of Chancery appointed.

The Act further provided that all mortgages, tallies, orders, stocks, annuities, and other transferable securities, in the name of any of the Masters or Usher, either singly by themselves or jointly with others, in trust for the suitors of the Court, should be assigned and transferred to the Accountant General ; and that all such securities to be thereafter taken by the directions of the Court for the benefit of any of the suitors, should, if appointed to be taken in the name of any officer of the Court, be taken in the name of the Accountant-General ; and that in all such assignments and transfers to the Accountant-General, the particular trust should be specified and inserted in the assignment transfer or security itself.

Mortgages, &c. to be assigned to the Accountant-General.

It was also provided that the Court of Chancery should have full power and authority, from time to time, according to the exigency of affairs, to vary, alter, or change any part of the regulations in the said orders or Act contained, and to make such

The Court of Chancery might alter any part of

the orders prescribed. further or other regulations about the premises as to the Court should seem meet and reasonable.

Accountant-General not to meddle with the suitors' moneys, but only to keep the account with the Bank. The Act also contains the following provision:—"To the end that all misapplications or wastings of the subject's money by any officer of the High Court of Chancery may be entirely prevented for the future, Be it therefore further enacted by the authority aforesaid, that the said Accountant-General shall not meddle with the actual receipt of any of the money or effects of the suitors, but shall only keep the account with the Bank; and the said Accountant-General observing the rules hereby prescribed, or hereafter to be prescribed to him by the said Court, shall not be answerable for any money or effects which he shall not actually receive; and the Bank of England shall be answerable for all the moneys and effects of the suitors which are or shall be actually received by them."

12 Geo. 1. c. 33. s. 20. The Act 12 Geo. 1. c. 33., intituled "An Act for Relief of the Suitors of the High Court of Chancery," imposed various rates and duties for the purpose of making good the Master's defaults, and contained the following important provision with regard to the suitors' cash deposited in the Bank of England, and the moneys to arise from such rates and duties:—

The suitors' cash in the Bank to be one common cash. "And to the end that no suitor or suitors of the said Court of Chancery may be delayed in payment of any money due to him, her, or them, but that every one may receive his or her full demand, whensoever he or she shall apply for the same, in the most easy and expeditious way: Be it therefore enacted, by the authority aforesaid, that all the money and cash now deposited in the Bank, or that shall at any time hereafter be paid into or deposited in the Bank on the account of the suitors of the said Court of Chancery, or any of them, or by order of the said Court, and all the moneys arising by the rates and duties given by this Act, or borrowed thereon, and paid into the Bank, shall be and be accounted and taken to be one common and general cash, and shall be promiscuously issued and issuable when and as the Court of Chancery shall direct, for the answering, paying, and clearing the debts and demands of any of the suitors of the said Court."

15 & 16 Vict. c. 87. s. 36. In the year 1852 the provisions in the Act of 12 Geo. 1. c. 32., as to the keeping of an account at the Report Office, were repealed by the 36th section of the Suitors' Relief Act, of 15 & 16 Vict. c. 87., of which the following is a copy:—

Account of suitors' moneys kept at the Report Office discontinued. "And whereas under an order of the said Court of Chancery recited in the said last-mentioned Act, 12 Geo. 1. c. 32., and thereby confirmed, an account of all moneys, securities, and effects belonging to the suitors of the said Court was directed to be kept at the Report Office; and whereas since the passing of such Act three accounts of such moneys, securities, and effects have been respectively kept, that is to say, one at the Report Office by the Clerks of Accounts, another in the office of the Accountant-General of the said Court, and a third at the Bank of England; and whereas it is considered that the account so kept at the Report Office is no longer necessary, and may be discontinued: Be it therefore enacted, that from and after the 1st day of October 1852 the account so kept at the Report Office as aforesaid shall be discontinued, and the offices of Clerks of Accounts shall be abolished, and so much of the said last-mentioned order as requires, that when any money belonging to the suitors of the said Court should be directed to be paid by order of the said Court, the note drawn for such money, upon cheque paper, as thereby directed, should be carried to the Report Office, and an entry made thereof there, and *Intratur* written thereon, shall be repealed; and from and after the 1st day of October 1852 every note or cheque for the payment of money, under any order of the said Court, signed by the Accountant-General of the said Court, and counter-signed by the Master of Reports and Entries, or one of the Registrars of the said Court, as herein-before required, shall be sufficient authority to the Bank of England to pay the money mentioned in such note or cheque to the person named therein, or to such person as he or she, by indorsement, shall order to receive the same."

CHAPTER II.—THE ACCOUNTANT-GENERAL.

Mr. Edwards appointed first Accountant-General. Sanders Chancery Orders, p. 521. In pursuance of the Act of 12 Geo. 1. c. 32., Mr. Edwards was appointed Accountant-General by an Order dated the 29th of June 1726. It will be observed that the Act does not prescribe any qualification for the office of Accountant-General. But Mr. Edwards, and his successor Mr. Marsham, were Masters of the Court at the time of their appointment. And with the exception of Mr. Waple, who had been clerk to the preceding Accountant-General, and had acted as his deputy during his illness, all the persons who have been subsequently appointed to the office of Accountant-General were either Masters at the time of their appointment or were contemporaneously appointed to

the office of Master.* Mr. Edwards and Mr. Marsham performed all the ordinary duties of Master in addition to those of Accountant-General. The duties of their successors as Masters of the Court were confined to administering oaths at the Public Office, and attending in the House of Lords in rotation with the other Masters.

Sanders Chancery Orders, pp. 551, 639.

The present Accountant-General was appointed by Lord Chancellor Cottenham in the year 1839. At the time of his appointment he was also created one of the Masters in Ordinary of the Court of Chancery. The office of Master was abolished in the year 1852 by the Act 15 & 16 Vict. c. 80.; but by the 59th section of that Act it was provided that nothing therein contained should prejudice or affect the rights, duties, or privileges of the present Accountant-General of the Court of Chancery as a Master in Ordinary of the Court, or any salary or other payment payable to the said Accountant-General as such Master in Ordinary, or his right or title to any retiring allowance under any Acts or Act of Parliament, nor should the said Accountant-General be required to perform any duties or services as such Master in Ordinary other than such as were then usually performed by him.

The present Accountant-General appointed 1839. Office of Master abolished 1852.

The present Accountant-General receives in salaries and allowances 4,650*l.* a year. As Accountant-General he receives a salary of 900*l.* (650*l.* being paid under 12 Geo. 2. c. 24., and 250*l.* under 9 Geo. 3. c. 19.), and also an allowance of 450*l.* a year for books and stationery under 46 Geo. 3. c. 129., and 55 Geo. 3. c. 64. As one of the Masters in Ordinary he receives a salary of 600*l.* under 5 Geo. 3. c. 28. and 46 Geo. 3. c. 128. Before the passing of the Sutors' Relief Act, 15 & 16 Vict. c. 87., in addition to his salary and allowances as Accountant-General, and his salary as Master, he received three-fifths of the brokerage on the stock bought and sold under the direction of the Court of Chancery. The Sutors' Relief Act directed that from and after the 28th of October 1852 the brokerage which should be received by the present Accountant-General should be paid by him into the Bank of England and placed to the Sutors' Fee Fund account, and that in lieu thereof there should be paid to him in addition to the salary and allowance for books and stationery received by him as Accountant-General the net yearly salary of 2,700*l.*

Salary and allowances of the present Accountant-General. Salary as Accountant-General. Salary as Master. Salary in lieu of brokerage.

Since the year 1852 the Accountant-General's share of the brokerage has been duly paid into the Sutors' Fee Fund. This share of the brokerage in 1853 amounted to 2,982*l.* 9*s.* 1*d.* It has since largely increased. In 1862 it amounted to 5,159*l.* 5*s.* 4*d.*, and in 1863 to 4,797*l.* 8*s.* 6*d.*, so that the provisions of the Sutors' Relief Act have resulted in conferring a considerable benefit on the suitors.

The rights, duties, and privileges of the present Accountant-General as Master in Ordinary are not affected by the provisions of the Sutors' Relief Act.

Under the Act of 3 & 4 Will. 4. c. 94. s. 50., the present Accountant-General is entitled as one of the Masters in Ordinary, in case of permanent infirmity or disability, to a retiring allowance of 1,500*l.* a year out of the Sutors' Fund.

The present Accountant-General's retiring allowance.

The 22nd section of the Sutors' Relief Act provides that after the resignation or death of the present Accountant-General the salary provided by the Acts 12 Geo. 2. c. 24. and 9 Geo. 3. c. 19. shall cease, and that there shall be paid to the Accountant-General for the time being, out of the Sutors' Fee Fund, the net yearly salary of 3,000*l.*

Salary of future Accountants General.

No specific provision has been made for a retiring allowance to future Accountants-General. But by the 46th section of the Act of 15 & 16 Vict. c. 87. the Lord Chancellor is empowered to order retiring pensions to be paid to any persons holding any office or appointment in the Court of Chancery.

Retiring allowances of future Accountants-General.

CHAPTER III.—THE CHANCERY BROKER.

The broker employed in transacting the business relating to the funds of the Court of Chancery has hitherto been selected by the Accountant-General, and remunerated by receiving a share of the brokerage. Up to 1819 his share of the brokerage was one-half. Since that period it has been two-fifths.

Appointment of Chancery broker.

The broker's share of the brokerage, which in 1853 was 1,988*l.* 6*s.*, amounted to 3,439*l.* 10*s.* 2*d.* in 1862, and to 3,198*l.* 5*s.* 8*d.* in 1863.

By the 21st section of the Act of 15 & 16 Vict. c. 87. it was enacted that it should be lawful for the Commissioners of Her Majesty's Treasury to make such regulations with respect to the broker to be employed in transacting the business relating to the funds of the Court of Chancery, and the amount of commission to be received by such

Treasury empowered to make regulations in respect to the Chancery broker.

* It has been stated that the Accountant-General was necessarily a Master (Minutes of Evidence taken before the Select Committee on Official Salaries, Q. 2191. 2604.) This appears to be a mistake; but it is countenanced by the 16th sect. of 3 & 4 Will. 4. c. 94., which enacts that "the appointment of all Masters in Ordinary of the High Court of Chancery, other than the Accountant-General of the said Court, shall be vested in His Majesty." The Accountant-General states that Mr. Waple was never a Master, Appendix, p. 7. His name, however, appears, among the Masters in Hardy's Catalogue of the Chancery Judges and Officers, p. 98.

broker or the payment of such broker by salary or otherwise, as they should from time to time think fit.

The late broker, Mr. Edward Mortimer, died during the sitting of this Commission. We understand that the remuneration of his successor is under the consideration of the Treasury.

CHAPTER IV.—THE ACCOUNTANT-GENERAL'S CLERKS.

**Their Ap-
pointment.** The Accountant-General's clerks are appointed by order of the Lord Chancellor on the nomination of the Accountant-General, who satisfies himself by examination that the person to be appointed is competent to discharge the duties of a junior clerk. No bond or security is required. As a general rule promotion in the office goes by seniority, but in every case it is conferred by an order of the Lord Chancellor on the recommendation of the Accountant-General.

Promotion. The clerks are paid entirely by salaries. No officer of the Court of Chancery is permitted to take any fee or gratuity (15 & 16 Vict. c. 87).

**Paid by
salaries.** At the institution of the office in 1726, and from that time down to 1764, the establishment consisted of two clerks only. Since 1764 the number of clerks has been increased from time to time,* and the establishment now consists of 35 clerks at the following salaries, viz.:—

Number.	Salaries.	£
	1 Chief clerk, and four 1st clerks, at 800 <i>l.</i> each	- - 4,000
	4 Second class clerks, at 510 <i>l.</i> each	- - 2,040
	4 Third class clerks, at 340 <i>l.</i> each	- - 1,360
	4 Fourth class clerks, at 250 <i>l.</i> each	- - 1,000
	4 Fifth class clerks, at 190 <i>l.</i> each	- - 760
	4 Sixth class clerks, at 150 <i>l.</i> each	- - 600
	4 Seventh class clerks, at 120 <i>l.</i>	- - 480
	6 Eighth class clerks, at 100 <i>l.</i>	- - 600
	Total clerks' salaries	- - £10,840

**Their retir-
ing allow-
ances.** The retiring allowance to which the Accountant General's clerks are entitled is regulated by the Act of 52 Geo. 3. c. 54. [Local and Personal], which enacts that the Lord Chancellor may order an annuity to be paid to any clerk in the Accountant-General's Office after 30 years' service, and to any clerk becoming infirm after fifteen years' service, not exceeding the yearly sum payable to such clerk at the time of making his application for such annuity.

On the 1st of October 1863 there were four retired clerks in the receipt of pensions amounting to 2,582*l.* 10*s.*

**Subdivision
of office.** The office of the Accountant-General is subdivided into the following four divisions, according to the initial letter of the titles of accounts:—

Appendix, p. 33.	A to C inclusive	- - - 1st division.
	D to J inclusive	- - - 2nd division.
	K to Q inclusive	- - - 3rd division.
	R to Z inclusive	- - - 4th division.

Each of the divisions is presided over by a principal or first clerk, and has attached to it one clerk of each class. Owing to the accounts of the Suitors' Fund and the Suitors' Fee Fund being kept in the 4th division, an additional clerk is attached to it.

**Duties of
clerks.** The first four clerks in each division attend upon the public, the work of the remaining four clerks is principally to keep the accounts. There is a Standing Order book in each division, in which is a statement signed by the Accountant-General, showing the duties prescribed by him to be performed by each clerk. A copy of this statement will be found in the Appendix.

**Appendix,
p. 39.** The chief clerk has a department to himself. He acts as principal clerk to the Accountant-General, and is assisted by one of the junior clerks.

CHAPTER V.—OFFICE HOURS AND VACATIONS.

**Hours of
attendance.** The hours of attendance at the Accountant-General's Office are from 9 to 3 and from 4 to 6. Drafts are not delivered out before 11, except drafts that bankers receive under

* The Act 3 & 4 Vict. c. 94. empowered the Lord Chancellor to appoint additional clerks when thought necessary, and to give them such salaries out of the Suitors' Fund as his Lordship, with the advice of the Lords Commissioners of the Treasury, should think fit.

powers of attorney, which are delivered out at half-past 10 o'clock. During the afternoon attendance no drafts are delivered out except on the day before the commencement of the Long Vacation; but papers are then taken in and questions answered, and every operation bespoken in the afternoon is treated as if it had been bespoken during the morning attendance of the same day.

The office is closed for the following periods during each of the four Chancery Vacations. viz., Christmas vacation, fourteen days; Easter vacation, eleven days; Consol. Orders, V. Whitsun vacation, eleven days; and the Long Vacation, from about 20th August to 28th October (except during three days in October, when it is opened for delivery out of drafts for the October dividends, and other drafts which may have become due since the closing of the office), making together 102 days, or upwards of three months.

CHAPTER VI.—BUSINESS TRANSACTED IN THE ACCOUNTANT-GENERAL'S DEPARTMENT.

The number of accounts in the books of the Accountant-General's Office exceeds 25,000. About three-fourths are both stock and cash accounts; the remainder are cash accounts only. Each account is headed with the title of the matter or the short title of the cause to which it belongs. Accounts are entitled in "matters" as distinguished from "causes" in all cases where the Court has jurisdiction by statute on an application in a summary way without the institution of a suit. In causes the account is raised by the surnames of the first plaintiff and the first defendant, thus—"Jones v. Williams;" but when a separate account is added, the title becomes much longer. In matters the title is not abbreviated, and frequently extends to 25 or 30 words; and when a separate account is added, sometimes runs to double that number.

The operations which are performed through the medium of the Accountant-General's department, and recorded in the books of the office, may be conveniently arranged under the following heads:—

1. Paying money into Court.
2. Transferring stock into Court, and depositing in Court Exchequer Bills and Bonds and other effects of suitors.
3. Carrying over from one account to another.
4. Purchasing stock and securities.
5. Selling stock and securities.
6. Transferring stock and delivering securities out of Court.
7. Paying principal money out of Court.
8. Paying out interest money and dividends on stock and securities in Court.

In regard to these operations, it is the business of the Accountant-General to issue at the request of the persons concerned, and in obedience to the Orders of the Court, or in some cases in pursuance of an Act of Parliament, such directions and drafts as may enable the Bank of England to receive or deal with the moneys and effects of the suitors in accordance with the Act or Order.

It must be borne in mind that the Accountant-General only acts at the request of the parties concerned. The orders of the Court of Chancery with which he has to do are not transmitted direct from the office of the Registrars to that of the Accountant-General. After an order is passed and entered by the Registrar it remains in the Registrar's office until the solicitor for the parties interested chooses to call for it. The solicitor takes the original order, or an office copy of it, with other documents if the order be not complete in itself, to the Accountant-General's Office, and bespeaks the operation which he desires to have effected. And then the Accountant-General acts only upon that part of the order to which his attention is called by the solicitor, although he has necessarily to consider the whole scope of the order. After the particular purpose for which the order was brought in is answered, the order itself is placed in a pigeon-hole in the divisional office to which it belongs for the convenience of the solicitors concerned, who are at liberty to remove it. No office copy of the order is filed with the Accountant-General, nor is any note made of the other provisions or directions contained in the order.

Every order dealing with funds in Court must describe them as standing to the credit of the account exactly as it is entitled in the Accountant-General's books. Every draft or direction or certificate issued from the office of the Accountant-General contains either the whole title of the account to which it relates, or such an abbreviation of the title as can only belong to that particular account, in order that the Bank may enter the transaction properly in their books, and so that the balance of stock and cash on the various accounts in the books of the Chancery Office at the Bank may correspond with those of the Accountant-General.

The suitors' cash in the Bank of England forms one common and general cash for

Vacations.
Consol.
Orders, V.

Number of
accounts.
Titles of
accounts.

Operations
performed
through the
medium of
the Account-
ant-Gener-
al's depart-
ment.

Business of
the Account-
ant-General.

Accountant-
General only
acts on re-
quest of par-
ties con-
cerned.
Orders not
transmitted
direct to
Accountant-
General's
office.

Accountant-
General acts
only upon
that part of
the order to
which his
attention is
called.

Description
of funds in
an order
must corre-
spond with
title in Ac-
countant-
General's
books.

12 Geo. 1.
c. 33.

Payment of the Accountant-General's drafts part of the general business of Bank ; but all drafts first examined in Bank Chancery office.

the Accountant-General to draw upon. The various amounts belonging to the suitors of each of the different stocks stand in one sum in the name of the Accountant-General in trust to attend the orders of the Court. The payment of the Accountant-General's drafts and the various dealings with the stocks and securities standing in his name form part of the general business of the Bank of England, but the obligation of entering every transaction to the proper account at the Chancery Office at the Bank makes it necessary that the drafts and certificates authorizing such payments and dealings should be previously examined at that office, in order that it may be known that there is cash and stock enough to the credit of the particular account to enable such payment or dealing to take place.

Accountant-General furnishes certificates of funds in Court ; but not certificates of any particular operation recorded.

At the request of the solicitor for the persons interested, the Accountant-General issues Transcripts of the various accounts in his Books, and certificates of funds in Court which show the exact amount of the money and effects belonging to any particular account. But it is no part of his business to furnish the parties concerned with vouchers or certificates of the due performance of any operation effected through his department. Upon the completion of every operation, except that of paying money out of Court, the Accountant-General files a certificate at the Report Office, and office copies of these certificates may be obtained from the Report Office at the expiration of two clear days, on payment of 4*d.* per folio of 72 words.

Certificates now signed by the chief clerk.

Until the month of February 1863, all certificates of funds in Court and certificates of transactions recorded in the books of the Accountant-General were signed by the Accountant-General himself. By an Order of the Lord Chancellor, dated the 13th of February 1863, the duty of signing these certificates was transferred to the Accountant-General's chief clerk.

CHAPTER VII.—PAYING MONEY INTO COURT.

No money paid to credit of cause without order.

No money can be paid into Court *to the credit of any cause* without an order of the Court, which either directs or permits the payment to be made.

Mode of paying in.

The solicitor for the parties concerned takes the order to the Accountant-General's Office, and leaves it there, and bespeaks a "Direction" addressed to the Bank of England to receive the money mentioned in the order. A "Direction to pay in" is made out, and after being examined is entered in a Book called a Direction Book. It is then signed by the Accountant-General, and laid by to await the solicitor's application for it. It is usually ready on the second day after it is bespoken. The Direction and the money to be paid in have to be taken to the Bank of England. If the money is in bank notes, the person who pays them in writes his name and address on the top of the notes in front, and hands them to one of the cashiers in the hall, who marks, cancels, and returns them to him ; if there is any balance in cash, it is paid in to one of the tellers at the counter, who gives a ticket for the amount. The Direction (with the cancelled notes and ticket) is taken by the person paying in to the General Cash Book Office at the Bank, where a receipt is given, which must be taken to one of the cashiers in the hall for his signature, and the receipt has then to be left at the Accountant-General's Office in Chancery Lane. The Accountant-General annexes to the receipt a certificate that the payment in has been made pursuant to the order, and transmits the receipt and certificate to the Report Office to be filed there.

Every evening a note of the various amounts paid in during the day is transmitted from the General Cash Book Office at the Bank to the Accountant-General's Office in Chancery Lane ; and on the next day, or in busy times on the same evening, the amounts noted are entered to the proper credit in the books kept there. The entry is checked when the cashier's receipt for the amount paid in is left at the office.

The "Directions," which are left at the General Cash Book Office during the day, are sent on the following morning to the Bank Chancery Office, and the amounts paid in are entered there to the credit of the particular causes or matters mentioned in the Directions.

Voucher for payment in.

An office copy of the receipts and certificates filed at the Report Office may be obtained at the expiration of two clear days after the Bank receipt is left with the Accountant-General, but in the meantime the person who has paid the money in remains without any voucher or receipt for the payment.

Expense of an order.

The expense of procuring an order confined to the payment of money into Court is 5*l.* at the least. The time occupied in the Accountant-General's office from first leaving the order to the Direction being ready, rarely exceeds two days ; but the whole time occupied in paying money into Court, from the date of the application for the order to the period when a voucher may be obtained from the Report Office, is seldom less than a fortnight.

Time occupied.

In the following cases money may be paid into Court without an order :—

Payment in
without
order.

1. Under 36 Geo. 3. c. 52. s. 32. authorizing an executor to pay into Court a legacy bequeathed to an infant or person beyond seas, the Accountant-General issues his Direction for such payment on the certificate of the Inland Revenue Department (prescribed by the Act) of the duty thereon being paid.
2. Under 9 & 10 Vict. c. 20. directing subscribers to works or undertakings to be effected under the Authority of Parliament to pay into Court a deposit under the Standing Orders of Parliament, the Accountant-General issues his Direction for such payment on the warrant of one of the clerks of the Private Bill Office of the House of Commons.
3. Under the 10 & 11 Vict. c. 96. empowering trustees to relieve themselves from responsibility by paying the trust fund into Court, the Accountant-General issues his Direction on the affidavit of the trustee, stating the amount and particulars of the trust fund, and the persons interested therein, and other particulars mentioned in the General Orders.
4. Under the 4 & 5 Vict. c. 35., and 15 & 16 Vict. c. 51. (Copyhold Enfranchisement Act), authorizing the consideration money, in cases of the owners being under disability, and also in other cases mentioned in a later Act, to be paid into Court, the Accountant-General issues his Direction on the written request of the solicitor of the person paying in any money.
5. Under the 8 Vict. c. 18. (the Lands Clauses Consolidation Act, 1845), authorizing in certain cases compensation moneys for land taken by the promoters of an undertaking to be paid into Court, the Accountant-General issues his Direction on the written request of the solicitor for the promoters and on the production of a copy of the Special Act. By the 88th section of the same Act it is provided that during the period of the year when the Accountant-General's Office is closed, the promoters of the undertaking may deposit money in the Bank of England, on a request signed by their secretary or solicitor; but this provision is coupled with the condition that, within ten days after the opening of the Office, the usual Direction shall be obtained for payment of the amount deposited in the Bank into the name of the Accountant-General.*
6. Under Estate Acts.
7. Money may be paid in to the credit of a matter in Lunacy without an order. In matters in Lunacy the Accountant-General issues his Direction on the certificate of one of the Masters in Lunacy.

During the year ending 1st Oct. 1861 the number of payments into Court was 3,800, Appendix, the amount paid in was 4,398,591*l.* 4*s.*, of which amount the sum of 722,418*l.* 8*s.* was p. 73. paid in under 9 & 10 Vict. c. 20.

CHAPTER VIII.—TRANSFERRING STOCK AND SECURITIES INTO COURT.

Stock may be transferred into Court without an order under the certificates of the Masters in Lunacy and under the Acts of 9 & 10 Vict. c. 20. and 10 & 11 Vict. c. 96. Order when necessary.
In all other cases an order of the Court must be obtained.

On the order being taken by the solicitor to the Accountant-General's Office, a transfer ticket is prepared, telling the Bank by whom and to what account (in trust) the transfer is to be made. After the ticket is signed by the Accountant-General's chief clerk it is sent, with the order and any other papers that may be required, to the division to which the account belongs, and a certificate is made out from the ticket. The ticket is then given to the solicitor, and by him taken to a stockbroker, who makes the necessary arrangements for transferring the stock into the name of the Accountant-General. The transfer being made, the ticket remains in the Stock Office, and nothing is known of the transfer in at the Bank Chancery Office until the Accountant-General himself sends information of it. When the Accountant-General accepts the stock he signs a notification for the Chancery Office, addressed to the Chief Accountant, informing him of the acceptance and of the particular account to which the stock is to be placed. When the stock is accepted the clerk of the Stock Office signs a certificate of the transfer in, which is transmitted to the Accountant-General's Office the same evening. It is annexed Mode of transferring Stock, &c. into Court.

* In the case of money paid into Court under the Lands Clauses Act the title of the Account varies according to the section under which the money is paid in. Under one section the property is described in the title of the Account; under another the persons interested in the land are named; but under the 69th sect. (usually termed the Disability Clause), money is paid to a common account, entitled "Ex parte the Promoters of the Undertaking in the Matter of the Special Act" (citing it).

to the certificate previously made out at the Accountant-General's Office, and both are filed at the Report Office.

Accountant-General attends at the Bank to accept stock.

The Accountant-General attends at the Bank of England on Tuesdays and Fridays, to accept all stock transferred into his name, and sign his acceptance in the stock book. This acceptance is a declaration of trust that the stock is subject to the orders of the Court of Chancery, in accordance with the Act of 12 Geo. 1. c. 32., and the 14th rule of the 1st of the Consolidated Orders of the Court of Chancery.

Stock of companies.

If the securities transferred into Court consist of stock of any Company a declaration of trust is made in the Company's books, and a certificate thereof is given to the Accountant-General by the proper officer of the Company. The Accountant-General signs a notification addressed to the Chief Accountant of the Bank, containing the amount and description of the stock accepted, and the title of the account to which it is to be placed, and transmits such notification to the Bank Chancery Office.

Exchequer bills.

Exchequer bills or bonds and India debentures are deposited in the Bank under "Directions" issued by the Accountant-General, and are placed to the credit of the cause mentioned in the "Direction." The process is similar to that employed in paying money into Court.

By the 13th rule of the 1st of the Consolidated Orders of the Court of Chancery, authority is given for the investment, without any further order, of any moneys arising from any Exchequer bills paid off in other bills. By an order of the 28th August 1828, which is still in force, authority is given to the Bank without any Direction from the Accountant-General to exchange bills in course of payment for new bills. When the bills are exchanged the Bank sends a certificate, signed by a cashier, in each account on which any of the bills so exchanged were standing, stating the numbers, dates, and amounts of the bills exchanged, and of the new bills received in exchange, and also of the interest which has been received. The particulars are entered in the Accountant-General's books, and a certificate, prepared in his office, is annexed to the Bank certificate, and both are filed at the Report Office. The interest of such bills is received by one of the cashiers of the Bank, who places it to the credit of the Accountant-General, and in the Chancery Office at the Bank the amount of such interest is carried to the account to which the Exchequer bills are placed.

Exchequer Bills were formerly exchanged yearly; they now under a recent Act remain in force five years. Half-yearly coupons are given with the bills, and as these become due they are presented for payment by the cashier, and information of the amount received and of the account to which it belongs is transmitted to the Accountant-General.

Foreign securities.

Other effects, such as foreign securities and railway and dock bonds, are placed in a labelled box, in the presence of the solicitors of the parties interested; and the box is deposited in the Bank, under a "Direction" issued by the Accountant-General. A memorandum of the deposit is placed in the Accountant-General's books, and in the books of the Chancery Office at the Bank, to the credit of the cause mentioned in the "Direction." A receipt is given by the cashier of the Bank for the box, without reference to its contents, and the certificate of the Accountant-General filed therewith is to the same effect. If a box contains securities to which coupons are attached, the practice is to include in the Order under which the box is deposited a direction that the box shall be from time to time delivered out of Court to some person named in the Order, in order that he may receive the interest. And when the interest becomes payable it is necessary to bespeak from the Registrar a "Direction" to the Bank to deliver the box out, and from the Accountant-General a "Direction" to re-deposit it afterwards.

On the 1st October 1863 there were 28 boxes deposited in the Bank of England to the credit of different causes and matters.

Appendix,
p. 73, B. 4.
p. 72, A. 5.

During the year ending 1st October 1861 the total amount of stock and securities transferred into and deposited in Court was 3,416,349*l.* 19*s.* 11*d.*; the number of separate transfers and deposits was 693.

CHAPTER IX.—CARRYING OVER STOCK OR CASH IN COURT.

Mode of carrying over.

Stock or cash in Court is "carried over" (that is transferred) from one account to another, under the authority of an order of the Court. The order is taken to the Accountant-General's Office by the solicitor, who bespeaks the "carrying over." A written request is not necessary, although it is frequently given, as there is a special fee allowed to the solicitor for it. The Accountant-General signs "a Direction" to the Bank "to carry over" the stock or cash mentioned in the order. As soon as the "carrying over" has been completed, the Bank sends a certificate thereof to the Accountant-General, who makes a similar "carrying over" in his ledgers; and another certificate is signed that such

carrying over has been effected. This certificate is annexed to the Bank certificate, and both are filed in the Report Office.

The amount of cash, securities, and other effects carried over in the Accountant-General's books in the year ending 1st October 1861 was 2,262,580*l.* 15*s.* 3*d.* The number of separate carryings over was 3,340. Appendix,
p. 72, A. 18,
A. 7.

CHAPTER X.—PURCHASING STOCK.

Moneys paid into Court under the Infants' Legacy Act (36 Geo. 3. c. 52.), and the Trustee Relief Act (10 & 11 Vict. c. 96.), are invested without an order; and the dividends arising from such investments or from stock transferred into Court under the latter Act are also invested without an order; nor is an order required in the case of moneys paid in under the certificates of the Masters in Lunacy, and thereby directed to be laid out in stock to the credit of a matter in Lunacy. Investments
when made
without
order.

In all other cases an order is required to authorize the Accountant-General to invest cash in Court in the purchase of stock or securities.

In the case of a purchase of stock, the order is taken to the Accountant-General's Office with a written request signed by the solicitor stating the amount of cash to be invested, the account to which it stands, the description of stock to be bought, and the title of the account to which it is to be placed. The request is examined; and the amount of cash, the description of stock, and the account to which it is to be placed are written down as a commission to the broker. A draft is then drawn entitled in the account on which the cash stands, and made payable to the broker "on his causing" the stock to be transferred to the Accountant-General's account in trust in the account to which the stock is to be placed. The commission is given to the broker the next morning, and in the afternoon he sends up a contract note for the next stock day. The purchase draft is then filled up and signed by the Accountant-General. The draft and the order are taken to the Registrar, who countersigns the draft and puts his initials in the margin of the order if it be an investment of principal money, and the draft is entered in the Purchase Receipt Book under the date for which the purchase is made. The contract note is taken to the chief clerk, and the title of the account, and the amount and description of stock are entered upon a list, which is a notification addressed to the chief accountant of the Bank of England of the several amounts of stock accepted arising from purchases. The Accountant-General attends at the Transfer Office, and signs an acceptance of the stock. When all the amounts entered on the list are accepted the list is signed by the Accountant-General, and taken to the Bank Chancery Office, and forms the authority there for crediting the various accounts with the amounts of stock accepted. The purchase draft is taken by the broker to the Bank Chancery Office for examination and initialed there, and cashed at the General Cash Book Office on production of the stock receipt. A certificate of the stock having been transferred to the Accountant-General is sent to his office, and another certificate containing full particulars of the purchase is annexed to it. The latter certificate is signed after it has been examined with the broker's note, and both are filed at the Report Office. Mode of
purchasing
stock.

Other securities are purchased in a similar manner.

During the year ending 1st October 1861 the cash invested was 3,941,535*l.* 6*s.* 2*d.* The number of separate investments was 6,345, of which number 4,054 were investments of sums under 100*l.* Appendix,
p. 73, B. 5,
B. 6.

CHAPTER XI.—SELLING STOCK AND TRANSFERRING STOCK AND OTHER SECURITIES OUT OF COURT.

Sales and transfers are made under the authority of an order of the Court.

The solicitor takes the order authorizing the sale or transfer to one of the junior clerks to the Registrars, and bespeaks a Direction or certificate for sale or transfer as the case may be.* Registrar's
Direction.

The direction, which is signed by the Registrar, and is ready the day after it is spoken, is to the following effect:—

"To the Accountant-General of the } Jones *v.* Williams.
" Court of Chancery.

" Pursuant to an order dated

" One thousand pounds Bank Three pounds per Cent. Annuities, standing in your name
" in trust in this cause, are to be transferred to the Plaintiff David Jones [(or) are to
" be sold.]

"P.W.R., Regr."

* In Lunacy the certificate is signed either by the Registrar in Lunacy, or one of the Masters in Lunacy, according to circumstances.

When the Registrar signs the Direction he also signs a note in the margin of the order, so that he may not inadvertently issue a second Direction for the same stock.

Mode of
selling stock.

The solicitor takes the order and any other papers that may be required, with the Registrar's Direction, to one of the Accountant-General's clerks. If the Direction is for a sale, the clerk checks the calculations and makes up in the margin of the Direction a statement of the amount of stock to be sold, or of the money to be raised. He then examines the account in the ledger, and ascertains that no previous appropriation of the stock has been made, and makes a memorandum on the account that a sale has been bespoken. The title of the account, the description of stock, and the amount of stock to be sold, or of money to be raised, as the case may be, are then entered on the commission paper for the broker. On the following morning the broker takes the Registrar's Direction to the Bank Chancery Office, where the amount of stock is written in the margin of the Direction and initialed by one of the clerks. The Direction is then returned to the broker, who proceeds to make the sale. After the sale is made the contract note, which, as in the case of a purchase, is for a future day, is sent with the Registrar's Direction to the Accountant-General's Office. The principal clerk in the division to which the account belongs writes in the margin of the order, opposite the direction to sell, a memorandum of the amount of stock sold, and of the money produced by the sale. The contract note and Registrar's Direction are taken to the chief clerk, and a certificate is made out in the form of a notification to the Bank Chancery Office, and the contract note is sent to the division of the office to which it belongs, and entered in the Direction Book there. On the sale day the notification and the money raised by the sale are taken by the broker into the General Cash Book Office of the Bank, and a receipt, which is an echo of the notification, is given to him for the money. The receipt and the Registrar's Direction are taken to the Transfer Office and placed in the book in which the transfer of the stock for the Accountant-General to sign is entered. The Accountant-General signs the entry, and the usual receipt for the money, and at the same time he signs the notification, which is then taken back to the Cash Book Office. From the Cash Book Office it is sent to the Bank Chancery Office, and becomes the authority there for debiting the particular account with the amount of cash sold and crediting it with the money arising by the sale. A certificate is made out at the Accountant-General's Office, containing all the particulars of the sale, and annexed to the receipt sent from the Bank. The certificate is afterwards compared with the contract note by the chief clerk, and then signed by the Accountant-General, and filed at the Report Office.

Mode of
transferring
stock out of
Court.

The process gone through in the case of a transfer of stock out of Court is very similar. After the Registrar's Direction has been examined and initialed at the Bank Chancery Office, it is returned to the Accountant-General. A transfer ticket is then drawn, containing the title of the account, the amount and description of the stock, and the names and addresses of the persons to whom the transfer is to be made. A certificate is made out from the Registrar's Direction, dated the day on which the transfer will be made, containing the date of the order, the name of the Registrar who signed the Direction, and other particulars in full. The Registrar's Direction and the transfer ticket are then sent to the chief clerk, and particulars of all the transfers for the day of the transfer belonging to the same division are entered in a list in the form of a notification addressed to the Chief Accountant at the Bank. On the morning of the transfer day the transfer tickets and Registrar's Directions are taken by the broker to the Bank, and the proper entries are made in the transfer books for the Accountant-General to sign. When the Accountant-General has signed the transfer book he adds his signature to the list of transfers, which is then taken to the Bank Chancery Office, and is the authority there for debiting the various accounts with the sums transferred. The certificate of the transfer taken from the Registrar's Direction is signed, and then filed at the Report Office.

Delivery out
of bills,
bonds, and
boxes.

Exchequer bills and bonds, and boxes containing suitors' effects, are delivered out of Court under Directions similar to those issued in the case of sales and transfers of stock. The person to whom the delivery is to be made attends at the Accountant-General's Office, and is identified there. He signs a receipt for the Direction, and takes it to the Bank, where he is required to endorse it before the article mentioned in it is delivered to him. If he cannot attend personally he must give a power of attorney to some one else to receive the Direction from the Accountant-General, to give a receipt for it, and to receive the article mentioned in it from the Bank. A certificate of the delivery is signed and filed at the Report Office.

During the year ending the 1st of October 1861, the amount of stock and securities sold by the Broker was 2,780,136*l.* 6*s.* 7*d.*; the amount transferred or delivered out to Suitors, 3,870,927*l.* 5*s.* 5*d.* The number of separate sales was 2,543; the number of

separate transfers and deliveries, 1,667; the number of separate “Directions” issued by the Registrars for sale, transfer, and delivery of stock and securities was 3,002.

CHAPTER XII.—PAYMENT OF PRINCIPAL MONEY OUT OF COURT.

Except in the case referred to in the note* no money can be paid out of Court without the authority of an order of the Court.

If the fund to be dealt with does not exceed 300*l.* the order may be made upon an application at Chambers; if it exceeds that amount the order must be made in open Court.

The order is left at the Accountant-General’s Office with the first or the second clerk of the division to which the account to be operated upon belongs. After the order and the account in the ledger have been each examined, a draft is drawn entitled with the account as described in the order, the amount is entered in figures in the margin of the order opposite the direction to pay, and it is also marked in pencil on the debit side of the account in the ledger to show that a draft has been drawn against the account. The draft with the order is passed to another clerk for examination, and an entry of the draft containing full particulars is made in a Receipt Book for the signature of the payee, and the number belonging to the entry in the Receipt Book is put on the draft. The order and the draft are then laid before the Accountant-General, who signs the draft and puts his initials in the margin of the order, after which the draft is laid by to await the application of the person entitled to receive it. Drafts, when signed by the Accountant-General, are kept in the divisional offices in iron safes, of which only the first or second clerk in each division is allowed to keep the key. The payee, or some one authorized under a special power of attorney to act for him, must apply personally for the draft, and sign the entry in the receipt book. If the payee has not already been identified, he must get some solicitor known in the office to witness his signature. The draft is then dated and delivered out; it has then to be taken with the order to the signing Registrar,† who countersigns the draft and puts his initials in the margin of the order. The draft is next taken to the Chancery Office at the Bank, and if it is found that there is cash enough to meet it on the particular account upon which it is drawn it is initialed by one of the clerks; after that it is taken to the General Cash Book Office, where it has to be endorsed by the person who presents it. It is then exchanged for a ticket. The ticket is carried to the Public Drawing Office, which is at a considerable distance from the Cash Book Office. At the Public Drawing Office the bearer is requested to write his address on the back of the ticket, and at last receives the amount of the draft in notes or coin at his option.

Mode of paying money out of Court.

Every evening a separate list for each division of the Accountant-General’s Office, containing the amounts of the drafts paid during the day, with the entry numbers of the Receipt Book copied from them, and references to the titles of the accounts, is sent to the Accountant-General’s Office from the General Cash Book Office at the Bank. From these lists, which are termed “cash payment slips,” aided by the Receipt Books, to which in each case reference is made, the sums paid during the day are entered in the journal, and from the journal the accounts in the ledger are debited with the sums paid.

Cash payment slips.

CHAPTER XIII.—PAYMENT OUT OF COURT OF DIVIDENDS ON STOCK OR SECURITIES IN COURT.

As the whole of each description of stock in Court stands in the books of the various Funds at the Bank of England, and in the books of the various public Companies, in the sole name of the Accountant-General, the dividends upon each kind of stock are paid to the Accountant-General in one sum. Previously to each dividend becoming due a list is made out in the Accountant-General’s Office in the form of a journal entry, containing the titles of the several accounts to the credit of which any amount of the particular kind of stock upon which the dividend is going to be received may be standing, the amount of stock remaining upon each such account, and the dividend (less income tax) that will become due thereon. The accounts on which the stock is standing for the first time, or on which the amount of stock has been altered since the last dividend, are marked in the margin, and the list is sent sheet by sheet to the Chancery Office at the Bank. Two copies are there made of it; the stock and dividend on each account marked as altered are checked; the castings of both stock and dividend are examined, and the list returned to the Accountant-General’s Office. From these “sheets” the dividends

Dividend list.

* Under the Lunacy Regulation Act, 1852, stock may be transferred into Court by a Committee in lieu of his giving security, and in that case the Master may by his certificate direct the dividends to be paid to the Committee.

† The present Master of Reports assists the Registrars in countersigning the Accountant General’s Drafts, and attends on alternate days at the Accountant-General’s Office for that purpose. [*Vide* Order of Lord Chancellor of 27th July 1852, and 15 & 16 Vict. c. 87. s. 34.] The Registrars take it in turn to attend at the Accountant-General’s Office for the same purpose every other day.

are posted in the ledgers. The total dividend is made to agree with the amount received for the Accountant General by the Bank cashier. One of the copies of the sheets made by the Bank is kept there as the authority for posting the dividend in the ledgers of the Bank Chancery Office; the other is sent to the Accountant-General in the form of a certificate of the amount of dividend received and placed to the various accounts. It is examined in the different divisions of the office of the Accountant-General, and then filed at the Report Office.

The mode of paying the first dividend on stock is similar to that adopted in paying principal money.

Regular interest drafts. Drafts for dividends and other periodical payments, as annuities and maintenance, after the first payment are drawn without being bespoke. They become "regular interest drafts," and the production of the order is not required either by the Accountant-General or the countersigning Registrar. When the draft for the first payment has been examined a model is made of it, containing full particulars, and showing the dates when the subsequent payments will become due. If there be a power of attorney to receive the continuing payments, the number of the power and the name of the attorney is written upon the model. The models are alphabetically arranged, according to the titles of the causes and matters, for the sake of easy reference. The regular interest drafts are drawn from these models. They are entered in receipt books like bespoke drafts, and are then examined with the models and ledger accounts by the first and second clerks of the division, and in order to prevent delay are signed by the Accountant-General in anticipation of the dividend. The delivery of these drafts to the suitors does not commence until the day after the Bank begins paying the dividend. Many of them contain conditions to be fulfilled before payment can be made. The payment may depend on the existence of some life or lives other than that of the payee, the minority of an infant, the continuance of widowhood, the tenure of an office, and a variety of other circumstances. In one case, as we learn from the Accountant-General, the condition was that the payee had not appeared in public as an actress or public singer; in another the payment depended on the maintenance of a horse, and in another on the life of a cat. In every case evidence is required generally by affidavit to show that the condition, whatever it may be, has been fulfilled. And if the draft is to be received under a power of attorney, the existence of the payee's life has to be proved also. This is done by a request signed by the party, accompanied by a certificate from the minister and one of the churchwardens of the parish, or by an affidavit.

A large proportion of the drafts for dividends consists of drafts for very small amounts. The following statement shows the number and approximate amount of the drafts for dividends countersigned by the Registrar on the 10th January 1861:—

	Number.	Estimated Amount.
		£
Not exceeding 2 <i>l.</i> - - - - -	24	12
Exceeding 2 <i>l.</i> and not exceeding 5 <i>l.</i> - - - - -	55	137
" 5 <i>l.</i> " 10 <i>l.</i> - - - - -	83	622
" 10 <i>l.</i> " 25 <i>l.</i> - - - - -	136	1,700
" 25 <i>l.</i> " 50 <i>l.</i> - - - - -	63	2,268
" 50 <i>l.</i> " 100 <i>l.</i> - - - - -	49	3,670
" 100 <i>l.</i> " 500 <i>l.</i> - - - - -	55	13,700
" 500 <i>l.</i> " 1,000 <i>l.</i> - - - - -	5	3,750
Total - - - - -	470	25,859

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B. 6.

During the year ending 1st October 1861 there were drawn 42,223 drafts for principal money and interest, amounting to 8,425,911*l.* 5*s.* 2*d.*; that is to say:—

	£	s.	d.
6,345 purchase drafts in favour of the broker, amounting to -	3,941,535	6	2
35,878 drafts in favour of suitors, amounting to -	4,484,375	19	0
Total amount - - - - -	£ 8,425,911	5	2

Of the drafts in favour of suitors, 21,935, or nearly two-thirds, were regular interest drafts.

Of the total number of drafts issued, the number returned from the Bank Chancery Office as overdrawn during the year ending the 2nd of December 1861 was 50; during the year ending the 2nd of December 1862, 39. During these two years two overdrawn drafts were inadvertently passed: the amounts overdrawn were one penny and three

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122.

pence respectively. No record is kept of the amount of overdrawn drafts returned to the Accountant-General's Office.

CHAPTER XIV.—POWERS OF ATTORNEY FOR RECEIPT OF PRINCIPAL MONEY OR DIVIDEND.

If the payee named in the order be unable to attend in person to receive the Accountant-General's draft, he is required to authorize some one to act for him by a special power of attorney, which is prepared in the Accountant-General's Office. Special power of attorney.

The solicitor who bespeaks the power signs a written request for it on a form which may be obtained at the Accountant-General's Office. The request sets forth the names, addresses, and descriptions of the intended grantor and grantee, the date of the order under which the draft is drawn, and the amount to be received. The solicitor who signs the request certifies that the intended grantor is the person named in the order, and that the grantee is well known to him. The request and the order are left at the Accountant-General's Office, and on the second day following, the required power, with the form of the affidavit of "verification" or due execution of the power, may be obtained. The power authorizes the attorney to receive the draft, which it describes either by its amount or as being the dividend on a certain amount of stock, as the case may be, to endorse the grantor's name on the draft, and to receive the money drawn for thereby from the Bank. The power must be attested by two witnesses, who must subscribe their names, residences, and occupations; one of them must be a housekeeper, and be described as such, and one of them must make an affidavit of the due execution of the power. If the power is executed abroad it must be signed in the presence of some official person, who affixes his signature and seal of office. Written request. Affidavit of verification.

By the Act of 16 & 17 Vict. c. 98. s. 7. the Lord Chancellor is authorized to empower the Accountant-General to act on powers of attorney granted by any person, which may authorize the attorney to receive not only the sum mentioned in the power, but all sums which may subsequently be ordered to be paid to the same person; but no General Orders have been issued by the Lord Chancellor for carrying that enactment into effect, and consequently, if dividends on a larger amount of stock than that mentioned in the power, or any additional sum be ordered to be paid to the person by whom the power is given, a fresh power must be obtained. 16 & 17 Vict. c. 98. s. 7.

Whenever there are many small sums, each of them not exceeding 10*l.*, payable to creditors or legatees, in order to save the expense of powers of attorney, the Court, on the written request of the persons to whom the sums are payable, will add to the order for distribution a direction that such amounts as do not exceed 10*l.* be paid to the solicitor having the conduct of the cause, on his undertaking duly to transmit the same to the persons entitled. Sums under 10*l.*

The fee for preparing a power of attorney with affidavit of verification is 3*s.*, which is collected by means of a Fee Fund stamp, and is paid into the Suitors' Fee Fund. The Inland Revenue stamp duties on the powers are as follows:— Fee. Stamps.

	£	s.
For receipt of any sum or gross sums not exceeding 20 <i>l.</i> , or periodical payments not exceeding the annual sum of 10 <i>l.</i>	0	5
For receipt of dividends on Government Stock exceeding 10 <i>l.</i> per annum	1	0
For receipt of any sum or sums exceeding 20 <i>l.</i> , not being interest on Government Stock	1	10

The number of powers of attorney issued by the Accountant-General in the year ending 1st October 1863 was as follows:—

Impressed with 5 <i>s.</i> stamp	368
„ with 20 <i>s.</i> stamp	810
„ with 30 <i>s.</i> stamp	1,894
Without stamps	24
Total	3,096

yielding to the Consolidated Fund 3,743*l.*, and to the Suitors' Fee Fund 464*l.* 8*s.* The solicitor's charges attending the procuring of a power of attorney and getting it executed average 1*l.* 10*s.*, so that the total expense to the suitors of powers of attorney may be estimated at 8,851*l.* 8*s.* for the year.

CHAPTER XV.—AFFIDAVITS OF RESIDUE AND CALCULATION OF INTEREST.

By the 33rd of the Chancery Consolidated Orders, Rule 3, it is ordered, "That in the case of residues or shares of residue of money, stocks, funds, or securities [but not of residue. Affidavit of residue.]

"*interest or dividends*], remaining after a portion directed [by any order] to be applied "for particular purposes, the amount of which cannot be ascertained at the date of such "order, the amount of such residues or shares of residues shall be verified by affidavit." So that, for example, where 1,000*l.* stock is in Court, and an order is made directing a sale of so much thereof as will raise sufficient to pay costs when taxed, and a transfer of the residue after such sale, a direction from the Registrar is first required for the sale, and then another direction is required for the transfer of the residue, but the amount of the residue must be verified by affidavit before the Registrar can issue his direction for its transfer. The affidavit has to be made by the solicitor or his clerk, although it is solely founded upon information obtained from the Accountant-General's Office.

Affidavits of calculation.

Whenever any principal money is directed to be paid into Court *with interest* at a specified rate from a particular day to the time of payment, the amount of interest, though of course checked in the Accountant-General's Office, must be verified by a similar affidavit before the Accountant-General will give a "Direction" for payment in. The affidavits verifying residue and the affidavits verifying interest have been estimated to cost the suitors about 5,000*l.* a year.

CHAPTER XVI.—VOLUNTARY CERTIFICATES, NEGATIVE CERTIFICATES, TRANSCRIPTS, SEARCHES, FEES.

Voluntary certificates.

In addition to transacting the business involved in the operations the details of which we have described, it is the duty of the Accountant-General to inform the Court of the present state of any of the accounts in his books. This is done by what are called Voluntary Certificates. They are bespoken by a solicitor, and are made out on the second day after bespeaking, to give time for posting in the ledger the various transactions of the day on which they are bespoken. These certificates are made out by one clerk and examined by another, and then signed by the Accountant-General's chief clerk. They are very numerous, as no order is drawn up dealing with funds in Court without the production of one of these certificates.

Negative certificates.

Negative certificates are sometimes wanted to prove that particular sums of stock or cash have not been transferred or paid into Court within the time limited in the order. The order and such other papers as would be necessary to prepare the directions to transfer or pay in have to be left. The account is examined, and if the time for doing the act has expired without its being done, a certificate to that effect is made out. It is examined by the second clerk, who puts his initials, and then taken with the order and other papers to be read over to the Accountant-General, and to receive his signature. Great care is required in preparing these certificates, as they are taken to be evidence of the fact which they certify, and are used by the proper officer of the Court as the foundation upon which to issue process of attachment.

Transcripts.

Transcripts of accounts are frequently required for the information of the solicitors, and the Judges' clerks. Every suitor in each cause or matter is entitled to have furnished to him in a transcript book (being a book similar to a banker's pass book) a copy of the account in the books of the office relating to the funds in such cause or matter. The transcripts are taken principally from the ledger, with such references to the journals as may be necessary to give a clear account of the various receipts and payments, and other transactions which have taken place with regard to the fund on the particular account to which the transcript relates during the time it has been in Court. Sometimes they are of great length, as the accounts to which they refer may have existed for a very long period, or there may have been a large number of persons from or to whom money has been received or paid, and the other transactions relating to the fund may have been numerous.

Searches.

Searches have occasionally to be made to supply solicitors with information upon subjects which the books in current use in the office do not enable the clerks to give.

Fees.

The only fees paid for anything done in the Accountant-General's Office are 3*s.* for every power of attorney, 2*s.* for each debtor and creditor opening of a transcript of account, and 5*s.* for each search. These fees are settled by the Consolidated Orders of the Court, and are collected by Chancery Fee Fund stamps, and the produce is paid into the Fee Fund account.

The amount collected during the year ending 1st October 1863 was 645*l.* 7*s.*

CHAPTER XVII.—BOOKS KEPT IN THE ACCOUNTANT-GENERAL'S OFFICE.

The Books kept in the Accountant-General's Office in Chancery Lane consist of,—

- I. Direction books.
- II. Receipt books.
- III. Journals of receipts.
- IV. Journals of payments.
- V. Ledgers.

I.—*Direction Books.*

In the Direction Books the various directions we have referred to are entered.

Direction
Books.

II.—*Receipt Books.*

The Receipt Books contain,—

1st. Receipts or acknowledgments for drafts for principal moneys paid out.

2nd. Ditto, for special payments of interest money.

3rd. Ditto, for the first payments of regular interest drafts.

4th. Ditto, for subsequent payments of the same.

5th. Ditto, of the Chancery Broker for the purchase drafts given to him for investment.

Receipt
Books.

The Receipt Books contain several receipts in each page. The folios are numbered; and the receipts are numbered separately.

III.—*Journals of Receipts.*

A separate "Journal of Receipts" is kept in each of the four divisions of the Accountant-General's Office. In these books the formal journal entries are completed twice a week. By these entries the aggregate debits to be raised in the ledgers to the general accounts of "Cash at the Bank of England," and the separate credits to the several suitors' accounts to which the receipts of cash during the period relate, are formally recorded for the ledger postings to be founded upon them. In the same way the separate causes or matters and the accounts opened for the several descriptions of stock are debited and credited with the amounts of stock transferred. The accounts of the suitors are opened in the ledgers in double money columns for the separate record of the cash and stock entries. Practically, the money columns represent separate accounts, which, for convenience and saving of labour, are opened under one title.

Journals of
Receipts.

The purchases and sales of stock, stock transferred into and out of Court, and "carryings over" (or transfers between accounts), are all journalized in the "Journals of Receipts."

IV.—*Journals of Payments.*

A separate "Journal of Payments" is also kept in each of the four divisions of the Accountant-General's Office. The entries in these journals are founded on "payment slips" furnished daily from the Bank of England. These payment slips are daily lists of the Accountant-General's drafts which have been cashed, and they contain references to the entries in the Accountant-General's Receipt Books, where the explanatory vouchers upon which the drafts were issued are to be found, for the convenience of examination and record in the Accountant-General's Office.

Journals of
Payments.

The drafts given to the broker for purchases of stock affecting the cash column of the Suitors' Ledger Accounts, are included in the same entry as the other payments of the same date.

V.—*Ledgers.*

The ledgers kept in the Accountant-General's Office consist of,—

1st. Ledgers for current accounts, two sets, each 20 in number.

2nd. Ditto, for dormant accounts, four in number.

3rd. Ditto, for general accounts of stock and cash, four in number.

Ledgers.

Besides, occasionally, additional ledgers when it is not thought expedient to open a new set.

CHAPTER XVIII.—BOOKS KEPT AT THE BANK CHANCERY OFFICE.

The duplicate books kept in the Chancery Office at the Bank of England consist of 13 journals and 36 ledgers.

The 13 journals are divided into,—

(1st.) Cash journals (four in number). These contain the necessary entries defining the debits and credits for the cash paid in and paid out on account of the various causes or matters.

Cash
journals.

(2d.) Stock journals (four in number). These contain similar entries for all operations in stock; also for all transfers of stock into and out of Court.

Stock
journals.

(3d.) Dividend journals (four in number). These dividend journals are founded on the dividend sheets which are made out at the Accountant-General's Office and examined in the Chancery Office at the Bank; they record the debit to the cash account of the

Dividend
journals.

Accountant-General of the Court, for the full amount of the dividend due upon the stock standing in his name, and the credits to the various suitors' accounts comprised in that amount.

Carrying-over journal. (4th.) Carrying-over journal (one). This journal is devoted to the record of transfers of cash, stock, or securities, under orders of the Court, between the various causes or matters for which accounts are opened in the ledgers.

Ledgers. The 36 ledgers are divided into,—

- 30 for current accounts,
- 5 for dormant accounts, and
- 1 for the general accounts of cash and securities.

These ledgers contain the separate Dr. and Cr. accounts of the various causes or matters for which similar accounts are opened in the ledgers kept in the Chancery Accountant-General's department.

Double Entry. The Double Entry system of keeping accounts has been in use both in the Accountant-General's Office and the Bank Chancery Office since the establishment of the Accountant-General's Office.

Comparison of accounts between Bank Chancery Office and Accountant-General's Office. In order to prevent any material difference between the accounts of the Accountant-General's Office and those of the Bank of England Chancery Office, the totals of debits and credits for the preceding three days in each division are sent up from the Bank twice a week, and an account of the balances of cash and securities at the end of each month is also sent. These totals and balances are compared and agreed with the books of the Accountant-General. An account of the balance of cash remaining in the Bank to the credit of the Accountant-General in each division of the office is also sent weekly from the Bank Chancery Office, under cover, addressed to the Accountant-General's chief clerk. An account of the same balance is brought in from the several divisions of the Accountant-General's Office to the chief clerk and compared with the Bank account. As a consequence of the mode of calculating the dividends, which we have already described, the balances of stock standing to the credit of the suitors' accounts in the Accountant-General's books are compared with the like balances at the Bank Chancery Office twice in every year. And once in every year, on the 1st of October, the balance of cash and of each kind of stock standing upon every account in the Accountant-General's books is ascertained; the title of each account upon which any cash or stock is remaining is written in a book called a balance book, and opposite to such title the amount of cash and stock belonging to it is entered; a separate column being devoted to cash and to each kind of stock. A similar book is made out at the Chancery Office of the Bank. The two books are then compared together and a memorandum is taken of any difference that may be detected, and the differences are investigated and settled.

CHAPTER XIX.—REMUNERATION RECEIVED BY THE BANK FOR BUSINESS PERFORMED FOR THE CHANCERY SUITORS.

As regards the remuneration which the Bank receives, we have been furnished with the following statement by the Bank:—

Appendix, No. 5, p. 49. The expenses in keeping the accounts of the Court of Chancery, in the two departments [of the Bank] were 7,458*l.* per annum.

The average balances of the last five years have been 600,000*l.*; but the balances fluctuate between very wide limits. The highest in the year 1860, was 1,590,000*l.*; the lowest, on 13th Dec. 1860, 172,000*l.*

The account is sometimes overdrawn, and at those times when a balance is of most value, such as the periods of November 1857 and October 1847, the Chancery balances were very low; in fact, they are not to be relied on to the extent that ordinary mercantile balances are.

Taking 600,000*l.* as the average of the year (1860), it would be absurd in estimating the profits of such an average balance to treat it as the Bank would treat mercantile balances, which is to consider two-thirds as invested at 3 per cent., for on 13th December 1860, when the rate of interest was high, the balance was only 172,000*l.*

The Bank can only take half the average balance, and that at 3 per cent. gives	- £9,000
From which deduct expenses	- 7,458

Leaves	-	-	- £1,542
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Which the Bank gets for risk, pains, labour, and profit.

Appendix, p. 106.

The Bank of England in a subsequent communication stated that the expense of the duplicate account at the Bank was 2,200*l.* a year, thus leaving for the expense of transacting the other Chancery business 5,300*l.* a year.

CHAPTER XX.—ANNUAL RETURNS FROM THE BANK AND THE ACCOUNTANT-GENERAL.

In October of each year a statement of the balances of the suitors' stock and cash in Annual Court on the 1st of that month is made by the Chief Accountant at the Bank of England. return from the Bank.
 The following are copies of the statements for the 1st of October 1862, and the 1st of October 1863.

BANK STATEMENT FOR 1862.

	£	s.	d.
Total amount of the Suitors' cash - - - - -	2,864,603	6	7
Cash laid out pursuant to several Acts of Parliament - - - - -	2,264,744	1	10
Cash in the custody of the Bank - - - - -	599,859	4	9
Bank 3l. per Cent. Annuities - - - - -	39,703,021	9	7
Reduced Annuities - - - - -	7,270,841	12	6
New 3l. per Cent. Annuities - - - - -	5,722,414	5	3
Exchequer Bills - - - - -	314,400	0	0
Bank Stock - - - - -	547,357	7	5
East India Stock - - - - -	198,776	2	7
New 5l. per Cent. Annuities - - - - -	4,217	19	5
New 3l. 10s. per Cent. Annuities - - - - -	4,369	18	5
New 2l. 10s. per Cent. Annuities - - - - -	14,550	0	0
London Dock Stock - - - - -	74,419	18	11
East and West India Dock Stock - - - - -	33,825	13	9
Royal Exchange Assurance Stock - - - - -	3,470	16	2
Hudson's Bay Stock - - - - -	1,015	0	0
London and North-western Railway Stock - - - - -	18,355	10	0
St. Katherine Dock Stock - - - - -	14,950	0	0
Consolidated Stock East India Railway Company - - - - -	3,470	0	0
India 5l. per Cent. Stock - - - - -	12,399	9	2
Annuities for terms of years ending 10th October 1864 - - - - -	35	0	0
Annuities for 30 years from 5th April 1855 - - - - -	804	1	3
*Notes, Bills, and Private Bonds - - - - -	27,188	2	10
*Mortgages - - - - -	4,732	11	8
Globe Insurance Shares, 24 Shares of 100l. each.			
Westminster Chartered Gaslight Company, 2 Shares of 50l. each.			
East India Company's 4l. per Cent. Transfer Loan, 103,925 Rs.			
10 An.			
Exchequer Orders, 5l. per Annum.			

£54,574,474 3 8

The following Articles, the value of which is not ascertained, belong to the under-mentioned Matters and Causes:—

Matter.—	Anonymous, a box containing jewels.
"	Bariatinsky, Princess, a box labelled "Jewels."
"	Colman, Geo., a paper said to be his will.
"	Fludyer, Sir S., five chests and one box, marked "Plate and jewels."
"	Gliddon, G., a box marked "Foreign securities."
"	Holmes, John, estate, &c., a box marked "Foreign securities."
"	Wakeman, M. T., a box marked "Plate, jewellery, and trinkets."
Causes.—	Blount v. Nolan, Trusts, &c., a box marked "Foreign securities."
"	Davies v. Hallett, a parcel marked "Shares, &c."
"	Greville v. Greville, P. E. J. Greville, a box marked "Securities."
"	Greville v. Greville, E. E. Dawson, a box marked "Securities."
"	Greville v. Greville, Baroness de Cetto, a box marked "Securities."
"	Giles v. Pressey, a box marked "Securities."
"	Jones v. Lloyd, a bag of clipped money.
"	Secretary of State, &c., India v. Meffan, a box marked "Foreign securities."
"	Kell v. Charman, a box marked "Securities."
"	May v. Da Costa, a debenture deed.
"	Nixon v. Few, a box marked "United States Bank shares."
"	Pritchard v. Fleetwood, a deed of settlement.
"	Reeve v. Hancock, two boxes of plate, Nos. 1 and 2.
"	Sidebottom v. Butterworth, a box marked "Securities."
"	Stephens v. Green, a box marked "Securities, &c."
"	Stacpoole, Duchess, v. Lodge, a box marked "This cause."
"	Taylor v. Hall H. Armytage, a box marked "Railway stock."
"	White v. Killersby, five tallies.
"	Warren v. Daly Residuary Trust, a box marked "Foreign securities."

* A Return relating to these items will be found in the Appendix, No. 30, p. 123.

BANK STATEMENT FOR 1863.

	£	s.	d.		£	s.	d.
Total amount of the Suitor's Cash	2,952,721	4	8	Annuities for terms of years ending 10th October, 1864.	35	0	0
Cash laid out pursuant to several Acts of Parliament.	2,464,744	1	10	Government of India 4l. per cent. Debentures, 1859.	10,000	0	0
Cash in the custody of the Bank	487,977	2	10	East India Railway 5l. per cent. Debentures, 1859.	10,000	0	0
Bank 3l. per cent. Consolidated Annuities.	41,009,737	18	4	Bombay, Baroda, and Central India Railway Company's Consolidated Stock.	1,099	0	0
Reduced 3l. per cent. Annuities	7,442,071	10	6	Madras Railway Guaranteed 5l. per cent. Capital Stock.	1,720	0	0
New 3l. per cent. Annuities	5,807,176	19	8	Guaranteed 5l. per cent. Stock of the Great Indian Peninsular Railway Company.	4,740	0	0
Exchequer Bills	266,700	0	0	Consolidated Stock of the Shropshire Union Railway and Canal Company.	2,275	0	0
Bank Stock	588,034	14	1	4l. 15s. per cent. Stock of the Madras Railway Company.	4,000	0	0
East India Stock	228,356	11	8	Consolidated Stock of the London Brighton and South Coast Railway Co.	3,325	0	0
New 5l. per cent. Annuities	4,617	19	5	6l. per cent. Stock, No. 1	50	0	0
New 3l. 10s. per cent. Annuities	5,682	18	8	5l. " No. 1	2,079	0	0
New 2l. 10s. per cent. Annuities	6,314	6	9	5l. " No. 4	152	0	0
London Dock Stock	80,810	16	11	4l. 10s. " No. 1	630	0	0
East and West India Dock Stock	35,825	13	9	4l. 10s. " No. 3	600	0	0
Royal Exchange Assurance Stock	3,470	16	2	Debenture Stock	2,250	0	0
Hudson's Bay Stock	2,015	0	0	Consolidated Preference 4l. 10s. per cent. Stock, 1861, of the London, Brighton, and South Coast Railway Company.	60	0	0
London and North Western Railway Stock.	6,187	10	0	Notes, Bills, and Private Bonds	27,188	2	10
Globe Insurance Shares (24 shares, 100l. each).				Mortgages	4,732	11	8
Westminster Chartered Gaslight Company (two shares, 50l. each).				Exchequer Orders 5l. per annum.			
Saint Katherine Dock Stock	14,950	0	0	Total	£56,104,860	13	2
India 5l. per cent. Stock	29,401	8	8				
East India 4l. per Cent. Transfer Loan Stock, 124,726 rs. 14 ans.							
Consolidated Stock of the East India Railway Company.	9,570	0	0				
Annuities for 30 years from 5th April 1855.	1,023	11	3				

The following Articles, the value of which is not ascertained, belong to the under-mentioned Matters and Causes:—

Matter.—Anonymous, a small box containing jewels.

„ Bariatinsky, Princess, C. E. L. M. F., a person of unsound mind, a box labelled “Jewels.”

Cause.—Blount v. Nolan, Trusts, &c., a box marked “Foreign securities.”

Matter.—Colman, George, a paper said to be his will.

Cause.—Bevan v. Attorney General, a box marked “Railway and other stock and shares.”

„ Davies v. Hallett, a parcel marked “Shares, &c.”

Matter.—Fludyer, Sir Samuel, Bart., a person of unsound mind, five chests and one box, marked “Plate and jewellery.”

Cause.—Greville v. Greville, P. E. J. Greville, and others, &c., a box marked “Securities.”

„ Greville v. Greville, Lady E. E. Dawson and others, &c., a box marked “Securities.”

„ Greville v. Greville, E. C., Baroness de Cetto, and others, &c., a box marked “Securities.”

Matter.—Gleddon, George, a box marked “Foreign securities.”

„ Holmes, John, a box marked “Foreign securities.”

Cause.—Jones v. Lloyd, a bag of clipped money.

„ Secretary of State, &c., India, v. Meffan, a box marked “Foreign securities.”

„ Garrod v. Holmes, a box marked “Securities for outstanding estate.”

Matter.—Jeremiah Robert Ives, a person of unsound mind, a box marked “Royal Danish Railway shares.”

Cause.—Kell v. Charman, a box marked “Securities.”

„ May v. Da Costa, a debenture deed.

„ Nixon v. Few, a box marked “United States Bank shares.”

„ Pritchard v. Fleetwood, a deed of settlement.

„ Reeve v. Hancock, two boxes of plate marked No. 1 and 2.

„ Sidebottom v. Butterworth, a box marked “Securities.”

„ Stephens v. Green, a box marked “Securities, &c.”

„ Stacpoole, Duchess, v. Lodge, a box marked “This cause.”

„ Taylor v. Hall, Hannah Armitage, a box marked “Railway stock.”

Matter.—Wakeman, Mary Teresa, a person of unsound mind, a box marked “Plate, jewellery, and trinkets.”

Cause.—White v. Killersby, five tallies.

„ Trezevant v. Broughton, a box marked “This cause.”

The Accountant-General annually furnishes to the Home Office for insertion in the Judicial Statistics a summary of the amount of the transactions during the year. The following are copies of the summaries for the years ending 1st October 1862 and 1st October 1863:—

Accountant-General's annual summary of transactions.

1862.

Cash Securities and other Effects paid and transferred.	Into Court.	Out of Court.	Other Proceedings in the Office.	Number.	Amount.
	£ s. d.	£ s. d.			£ s. d.
Cash	9,119,368 17 1	8,957,308 2 5	Total number of Cheques signed	43,003	—
Bank 3l. per cent. Annuities	5,447,058 46 4	4,254,552 13 10	Amount of Cash Securities and other effects carried over in the Accountant-General's Books	- -	1,853,150 18 8
Reduced Annuities	674,284 13 10	569,140 6 9	Powers of Attorney issued, viz.:		
New 3l. per cent. Annuities	1,048,794 11 9	1,033,399 6 2	Impressed with 5s. Stamps	339	—
Bank Stock	124,823 19 10	20,866 1 10	Do. 20s. do.	808	—
East India Stock	43,653 17 7	14,764 18 2	Do. 30s. do.	2,087	—
Exchequer Bills	496,200 0 0	454,600 0 0	Without Stamps	12	—
Other Securities	14,175 4 10	1,152 14 2	Total number	3,246	—
Total Amount of Cash Securities and other effects paid and transferred	16,968,360 1 3	15,305,784 3 4	Total number of Accounts	24,252	—
			Amount of Fees collected by Chancery Fee Fund Stamps	- -	652 5 0

1863.

Cash Securities and other Effects paid and transferred.	Into Court.	Out of Court.	Other Proceedings in the Office.	Number.	Amount.
	£ s. d.	£ s. d.			£ s. d.
Cash	8,552,012 19 7	8,663,895 1 6	Total number of Cheques signed	43,565	—
Bank 3l. per cent. Annuities	6,302,163 15 11	4,995,447 7 2	Amount of Cash Securities and other effects carried over in the Accountant-General's Books	- -	2,157,800 12 1
Reduced Annuities	715,004 11 1	543,774 13 1	Powers of Attorney issued, viz.:		
New 3l. per cent. Annuities	813,783 18 7	729,021 4 2	Impressed with 5s. Stamps	368	—
Bank Stock	76,480 3 6	35,802 16 10	Do. 20s. do.	810	—
East India Stock	41,208 16 11	11,628 7 10	Do. 30s. do.	1,894	—
Exchequer Bills	614,600 0 0	662,300 0 0	Without Stamps	24	—
Other Securities	87,641 7 6	30,639 13 0	Total	3,096	—
Total Cash Securities and effects	17,202,895 13 1	15,672,509 3 7	Total number of Accounts	25,050	—
			Amount of Fees collected by Chancery Fee Fund Stamps	- -	645 7 0

In these statements the amounts of cash raised by sale of stock and of drafts paid to the Chancery broker are not distinguished from the other payments, nor is the amount of stock transferred into Court and out of Court distinguished from the amount purchased and sold.

The Accountant-General used to transmit to the Lord Chancellor a copy of the Annual Balance Book, but this has been discontinued for more than 30 years.

PART II.

FUNDS OF THE COURT OF CHANCERY AND PROVISIONS FOR THEIR CUSTODY AND MANAGEMENT.

CHAPTER I.—FUNDS OF THE COURT OF CHANCERY.

The Funds of the Court of Chancery may be divided under the following heads:—

1. The Money's and Securities of the individual suitors of the Court of Chancery under the control of the Court, inclusive of the deposits brought into Court in compliance with the Standing Orders of Parliament under the Act 9 & 10 Vict. c. 20.

Money's, &c. of individual suitors.

- Fund A. 2. The Stocks standing on the account entitled "Moneys placed out for the benefit and better security of the suitors of the High Court of Chancery." This fund is designated Fund A. in the Report on the Concentration of the Courts of Justice.
- Fund B. 3. The Stocks standing on the account entitled "Account of securities purchased with surplus interest arising from securities carried to account of moneys placed out for the benefit and better security of the suitors of the High Court of Chancery." This fund is designated as Fund B. in the Report on the Concentration of the Courts of Justice.
- Fund C. 4. The Suitors' Fee Fund. Fund C. of the Report on the Concentration of the Courts of Justice.
- Fund D. 5. Stock standing to the account entitled "Account of moneys placed out to provide for the officers of the High Court of Chancery." This fund is designated as Fund D. in the Report on the Concentration of the Courts of Justice. It is sometimes termed the Surplus Fee Fund.
- Appeal Deposit. 6. Stock and cash standing to the credit of "The Appeal Deposit Account."
- Money arising by sale of Six Clerks' Office. 7. Stock standing on the account entitled "Money arising by sale of the Six Clerks' Office."

We shall now proceed to give a succinct account of these various Funds. This part of our labours has been much lightened by the researches of the Commissioners appointed to inquire into the expediency of bringing together the Superior Courts of Law and Equity. Their report on the Concentration of the Courts of Justice contains so full and so clear an account of the Funds of the Court of Chancery to which their attention was directed, that we have thought it right, as far as possible, to adopt their language, availing ourselves, at the same time, of the Returns furnished to us by the Accountant-General, and omitting such details as appeared to us immaterial to the questions submitted for our consideration.

CHAPTER II.—MONEYS AND SECURITIES OF INDIVIDUAL SUITORS.

It has always been the practice of the Court of Chancery, in the exercise of its ordinary jurisdiction, upon the application of any party to a suit, to order property which is the subject of litigation to be brought into Court, and there retained under its control and custody. In addition to the property thus ordered into Court on the application of an adverse party, a large amount is annually brought in under the authority of various Acts of Parliament, or under permissive orders of the Court of Chancery, by public Companies, by purchasers of estates sold under the direction of the Court, and by persons in the situation of trustees and stakeholders.

At the end of the first year after the establishment of the Accountant-General's Office the number of accounts in the books of the Accountant-General was 415. The moneys and effects of suitors in Court amounted to 589,553*l.* 14*s.* stock and securities, and 152,037*l.* 4*s.* 6*d.* cash. The increase year by year in the amount of suitors' property in Court will be found in the Appendix. Of late years the increase has been about half a million a year. At the date of the last Return, on the 1st of October 1863, the moneys and securities of individual suitors consisted of 2,799,608*l.* 9*s.* cash, and 51,292,005*l.* 16*s.* 3*d.* stock and securities standing on 25,044 different accounts.

Of the accounts in the books of the Accountant-General a comparatively small number consists of accounts belonging to matters and causes in which litigation is actively going on. By far the larger number is composed of accounts in matters and causes which were either originally non-contentious or which have passed through the contentious stage. The stocks and securities on these accounts are retained in Court merely for the purpose of administration. As regards them the Court of Chancery is simply in the position of a trustee, retaining the principal under its control and protection, and paying the interest to the persons entitled to receive it. Many of these accounts are of more than 30 years' standing; some few are as old as the establishment of the Accountant-General's Office; and as it is now the practice where land belonging to a rectory or vicarage has been taken by a railway company, and the compensation money has been paid into Court and invested, to direct payment of the dividends to the rector or vicar for the time being, and like orders are made in similar cases, there is no reason why some of these administrative accounts should not last an indefinite time. No fee or per-centage or commission whatever is charged for managing these accounts. The persons interested in them receive their dividends without deduction; they are exempted from the expenses attending the appointment of new trustees and other expenses to which they might be liable if the money were not in Court, and they enjoy the advantage of having their principal secured by the Court of Chancery.

Appendix,
No. 14, p. 74.

Greater
number of
accounts,
Administra-
tive accounts.

No fee or
per-centage
charged
thereon.

Another large class of accounts consists of dormant accounts, or accounts which have not been dealt with for many years. Dormant accounts.

Of late years these accounts have frequently been the subject of investigation. In the year 1829 a return was made to Parliament, from which it appeared that the total amount of stock on which the dividends had not been received for five years previously to the 1st of October 1829 was 201,558*l.* 13*s.* Investigations of dormant accounts in 1829.

					£	s.	d.
For 10 years	-	-	-	-	70,498	6	0
For 15 years	-	-	-	-	28,288	16	11
For 20 years and upwards	-	-	-	-	127,904	5	11

The Suitors' Further Relief Act of 16 & 17 Vict. c. 98. s. 1. (passed in August 1853), provided that it should be lawful for the Lord Chancellor, at such time within nine months after the passing of the Act as should appear to him most convenient, to cause an investigation to be made into the several accounts standing in the name of the Accountant-General to the credit of any cause or matter, the dividends of which should not have been dealt with for fifteen years or upwards, and if and when he should be of opinion that it was not probable that any claim would be made for the same, to make orders for the appropriation of the future dividends to accrue due on such stock, or such part of such dividends as he should be of opinion might safely and properly be so appropriated, for the benefit of the suitors of the said Court, and for the carrying the same over to the credit of an account to be intitled "The Suitors' Unclaimed Dividend Account," and for the carrying, from time to time, such part of the cash standing to the last-mentioned account as he might think fit, over to the credit of "The Suitors' Fee Fund Account," and that such dividends, when so carried over, should thereupon become part of the fund standing to such account. Under 16 & 17 Vict. c. 98.

The Act provided that the rights of suitors to the dividends so carried over or to the stock itself should not be affected, but that their claims should be satisfied out of the "Suitors' Unclaimed Dividend Account," or the "Suitors' Fee Fund Account," or either of them.

The third section of the Act directed that a similar investigation should be made at the expiration of every five years from the first investigation, and that a similar course should be pursued thereupon.

It will be observed that the provisions of the Suitors' Further Relief Act are confined to stock. Confined to stock.

Under this Act the first investigation was made as to stock standing on the 1st May 1854 upon accounts not dealt with for fifteen years. In a return made to the House of Commons in July 1854, it appears that the number of such accounts was 566, and the amount of such stock 256,176*l.* 2*s.* 8*d.* (the total suitors' stock then in Court being 46,000,000*l.*) In the following year (1855) a list containing the title of such accounts, but not stating the amounts standing thereon, was printed and exhibited in the Chancery Offices. The result was that many persons came forward and preferred their claims, and that about one-half of the stock supposed to be unclaimed was transferred out of Court to successful claimants. Investigation in 1854.

The next investigation was not made until the year 1860, when a second list was published, which included the titles of such of the accounts comprised in the first list as had not been the subject of successful claims. In 1860.

Accounts upon which stock is standing, the dividends of which are regularly invested and accumulated by the Accountant-General, are not considered to be within the provisions of the Suitors' Further Relief Act. It must therefore be borne in mind that the investigations under this Act do not extend to accounts to which cash has been paid under the Infant Legacy Act, or to which stock or cash has been transferred or paid under the Trustee Relief Act, nor to any accounts upon which stock is standing the dividends of which have been ordered to be invested if such investment has once been bespoken, inasmuch as by the Consolidated Order 1, Rule 12, when investments of dividends on stock purchased or to be purchased are directed by an Order of the Court, after the first investment has been bespoken, the Accountant-General is authorized to continue to invest the dividends as they arise without any further request. Accounts not considered dormant if dividends regularly invested.

No orders have as yet been made for the appropriation of any portion of the dividends of the stocks standing upon the accounts which have been the subject of investigation under the Suitors' Further Relief Act and which have remained unclaimed. No orders made for appropriation of dividends.

The first investigation into the amount of suitors' unclaimed cash in Court was made in the year 1850, when the following Return was made to Parliament.

RETURN from the ACCOUNTANT-GENERAL of the HIGH COURT of CHANCERY, showing the Amount of Cash standing to different Accounts in his Name, and not dealt with during the periods of ten, twenty-five, and fifty years respectively prior to the 1st day of August, 1850; and the Amount of Stock or other Securities standing to different Accounts in his Name, the dividends on which have not been dealt with during the same periods respectively.

		Number of Accounts.		Cash.	Stock.
		Cash.	Stock.		
Ten years	- -	1,220	364	£ 95,387 19 5	£ 136,140 11 3
Twenty-five years	-	1,056	237	71,582 7 1	112,359 6 1
Fifty years	- -	975	161	80,524 19 4	66,044 1 11
Total	- -	3,251	762	247,495 5 10	314,543 19 3

SUMMARY.

		Number of Accounts.	Cash and Stock.
			£ s. d.
Cash	- - - - -	3,251	247,495 5 10
Stock	- - - - -	762	314,543 19 3
Grand Total	- -	4,013	562,039 5 1

This Return did not include cash which had arisen from interest or dividends on the unclaimed stock, but it was stated at the time that the amount of such cash was about equal to the amount of the cash included in the Return, and that the whole amount of unclaimed cash then in Court was about 500,000*l.* or one-fifth of the suitors' cash in Court.

From the Returns furnished to us by the Accountant-General it appears that the total amount of cash, including cash arising from dividends, standing, on the 1st of October 1861 to accounts not dealt with for 10 years prior to that date, was 535,112*l.* 1*s.* 4*d.*, and that the number of such accounts was 4,560.

No list of accounts upon which unclaimed cash only is standing has yet been published. The following Returns, furnished to us by the Accountant-General, will show that there are nearly 1,200 accounts in his books upon each of which the whole amount of stock and cash now remaining would be insufficient to cover the expense of applying for it.

Number of separate suitors' accounts whereon the amount of stock, interest, and cash together does not exceed 1*l.*, and the total amount on such accounts, distinguishing the amounts of stock from interest and cash:—

Number of such accounts	- - -	351
Amount of stock	- - -	£4 0 5
Amount of interest and cash	- - -	£121 4 9

Number of separate suitors' accounts whereon the amount of stock, interest, and cash together exceeds 1*l.* and does not exceed 5*l.*, and the total amount on such accounts, distinguishing the amount of stock from interest and cash:—

Number of such accounts	- - -	831
Amount of stock	- - -	£65 19 8
Amount of interest and cash	- - -	£2,451 17 7

We have already described the various operations performed with reference to the suitors' moneys and effects in Court, and it only remains for us in this part of our subject to call attention to two most important points.

1. Money which comes into Court as cash, unless invested in pursuance of the Act of Parliament or order of Court under which it is paid in, or in pursuance of a further order obtained for the purpose, remains as cash upon the particular account to which it belongs. In the Bank the cash balances belonging to the different suitors form "one common and general cash" for the Accountant-General to draw upon. Out of this "common and general cash," as will be seen in the following chapter, large investments have been made. But the income of these investments goes to maintain the revenues of the Court, and the individual suitors to whom the money thus invested belongs derive no exclusive benefit from the investment.

Appendix,
p. 84, C 9.

Accounts not
worth the
cost of appli-
cation.
Appendix,
p. 84, C. 7,
C. 8.

Mode of
dealing with
cash not
required by
the suitors
to be in-
vested.

2. Both purchases and sales of stock on behalf of the suitors almost invariably take place on the same day, but it is the practice to purchase and sell in the open market every amount of stock directed to be sold or purchased, and the full brokerage of one eighth per cent. is charged to the suitors on each transaction.

Mode of purchasing or selling stock on behalf of suitors.

CHAPTER III.—THE SUITORS' FUND.

In 1739 it was found that the fees authorized by the Act 12 Geo. 1. c. 32. to be taken in the office of the Accountant-General were disproportionate and unequal, and, in small transactions, a great burden to the suitors, and that for a great variety of business and transactions which were either prescribed by that Act, or absolutely necessary for the regular keeping of the suitors' accounts, no fee was provided. It was also found that as all moneys paid into Court by the suitors were accounted and taken as one common and general cash to be promiscuously used to answer the demands of the suitors, there had always been a large sum of money belonging to the suitors of the Court of Chancery lying dead and unemployed in the Bank of England. An Act was therefore passed (12 Geo. 2. c. 24.) by which the Court of Chancery was authorized to lay out in Government securities a sum not exceeding 35,000*l.*, part of the then unemployed cash balance, and out of the interest arising from the investment to pay to the Accountant-General and his clerks certain fixed salaries in lieu of fees, the surplus interest being treated as part of the suitors' common and general cash.

Suitors' Fund.

12 Geo. 2. c. 24.

Under the authority given by this Act, and in pursuance of an Order of the Court of Chancery of the 2d of July 1739, the sum of 34,939*l.* 1*s.* 6*d.* cash was invested in the purchase of 36,850*l.* Exchequer Tallies, which in 1752 were exchanged for the same amount of Bank 3*l.* per cent. Annuities. This investment was the foundation and commencement of that part of the "Suitors' Fund," which is now known as Fund A., and is in fact the representation in stock of so much of the money belonging to the suitors of the Court of Chancery as is not required to be kept at the Bank in cash to meet the current demands of suitors and remunerate the Bank for its responsibility and trouble.

First investment in Fund A.

As the business of the Court of Chancery increased, the balances of unemployed cash belonging to the suitors continued to accumulate in the Bank, and repeated investments were from time to time made in respect thereof. In each case until the year 1838 the investment was authorized by a separate Act of the Legislature, and each Act contained a provision that if the whole or any part of the sum authorized to be invested should be wanted to answer any of the demands of the suitors, the Court of Chancery might direct the same or any part thereof to be called in, or the securities on which the same should be placed to be disposed of, in order that the suitors might at all times be paid their respective demands out of the common and general cash belonging to such suitors.

Repeated investments. Under separate Acts until 1838.

In the year 1838 an Act was passed (1 & 2 Vict. c. 54.) by which the Lord Chancellor was invested with a general authority from time to time to order the placing out on Government securities of such portions of the suitors' cash lying dead and unemployed in the Bank, as he might judge to be expedient. The Act contains a provision similar to those contained in the former Acts for disposing of the investments to meet the suitors' demands. Large investments have been made in pursuance of the said Act, and in addition thereto the Act of the 5 Vict. c. 5., by which the equity jurisdiction of the Court of Exchequer was abolished, directed that all the funds which had been purchased out of the general cash belonging to the suitors of that Court should be transferred to the Accountant-General of the Court of Chancery, and should be added to, and consolidated with, the funds held by him under the provisions of the various Acts above referred to.

General authority to invest given by 1 & 2 Vict. c. 54.

The general result of these operations has been that the invested fund purchased with suitors' cash (Fund A.), and which commenced in the year 1739 with the sum of 36,850*l.* Exchequer Tallies, had, on the 1st October 1863, reached the large amount of 2,820,702*l.* 12*s.* stock, representing the sum of 2,464,744*l.* 1*s.* 10*d.* cash. The dates and particulars of the several investments and transfers, by means of which this aggregate sum was made up, as well as the sales which have been made to replenish the cash in the Bank, will be found in the Returns furnished to us by the Accountant-General. On the 1st October 1863 the amount of cash in Court was 2,952,721*l.* 4*s.* 8*d.*, which was made up as follows:—

Result of the investments in Fund A.

Balance of suitors' cash then in the Bank of England	£334,864	7	2
Cash in the Bank belonging to the Suitors' Fund, the			
Suitors' Fee Fund, and the Appeal Deposit Account	153,112	15	8
Invested in stock, as above	2,464,744	1	10
	£2,952,721	4	8

Fund B.

Such being the history of Fund A., we proceed to explain the origin, progress, and present condition of that part of the "Suitors' Fund" now generally known as Fund B., which is the representation in stock of the surplus interest of the investments on Fund A., and which forms a guarantee fund for the sufficiency of Fund A. to raise an amount of cash equal to the aggregate of the sums invested thereon.

It will have been seen that, by the Act 12 Geo. 2. c. 24., which was the commencement of the "Suitors' Fund," the interest of the sum thereby directed to be invested was to be applied in payment of certain salaries to the Accountant-General and his clerks, and the residue of such interest was to constitute part of the common and general cash of the suitors. Similar provisions were contained in succeeding Acts, that is to say, the income arising from the investments thereby directed to be made was to be applied to the augmentation of the salaries of the Masters and other existing officers of the Court, or the payment of the salaries to new or additional officers thereby appointed, and the surplus income was to be added to the suitors' general cash.

9 Geo. 3.
c. 19.

In the year 1768, however, an Act was passed, the 9 Geo. 3. c. 19., by which it was directed that, as the interest of these various investments was more than sufficient to pay the salaries charged thereon the surplus interest which had arisen, and should thereafter arise therefrom, together with the interest of the securities to be purchased with such surplus interest, should from time to time be placed out on Government securities, the interest or annual produce of which should be carried, part thereof, to a distinct and separate surplus interest account, to be designated as therein mentioned, and the remainder to another like separate and distinct account, but with a different designation. For what purpose this separation of accounts was made is not very obvious, nor is it material to inquire, since, by a subsequent Act, the two accounts were directed to be blended into one. It is sufficient to say that the directions of the Act were carried into effect, and the surplus interest therein referred to from time to time duly invested in Government securities. And as we have described the Act of the 12 Geo. 2. c. 24., as the commencement of Fund A., so this Act may be considered as the foundation of Fund B.

14 Geo. 3.
c. 43.

In the year 1774, an Act was passed (14 Geo. 3. c. 43.), from the recitals in which it appears, that the securities purchased with such surplus interest, and then standing to the credit of the respective accounts above referred to, amounted together to the sum of 10,200*l.* Bank 3*l.* per cents. This sum, together with the interest to arise from a sum of 50,000*l.* suitors' cash, thereby directed to be invested on account of Fund A., and also the surplus interest thereafter to arise from any of the preceding investments made on account of the same fund, the Act directed to be applied, under the orders of the Court of Chancery, in rebuilding the Six Clerks' Office, and purchasing ground and houses for the purpose, and in erecting suitable offices for the Registrar and Accountant-General of the Court. When the purposes of the Act had been accomplished, the appropriation of funds thereby directed was to cease, and the surplus interest thenceforth to arise from the before-mentioned securities was to be from time to time invested, as before, and the interest to be added to and accumulated on Fund B.

Various Acts
imposing
charges on
the income
of the
Suitors'
Fund.

Various Acts were subsequently passed, whereby charges of large amount were thrown on the surplus income arising from funds A. and B. Thus, in 1792, the Lord Chancellor was authorized to expend a sum not exceeding 30,000*l.* out of such income in erecting new offices for the Masters in Chancery and their clerks, and for the Secretaries of Bankrupts and Lunatics and their clerks, and fire-proof repositories for the records, &c., in the said offices, together with a Public Office for the Suitors. Again, in 1810, a sum not exceeding 12,000*l.* was authorized to be taken out of the same surplus income, and applied in building offices for the Examiners, Cursitors, Clerk of the Crown, and Clerks of the Petty Bag of the Court of Chancery. In addition to these charges, provision was from time to time made from the same source for augmenting the salaries of the Masters, Registrars, and other Officers, for paying the numerous additional clerks and others, required by the continually increasing business of the Court in all its branches, for pensioning officers retiring after a certain duration of service, or incapacitated by any permanent infirmity, and for compensating the holders of abolished offices.

Increase of
Fund B.

Notwithstanding, however, these numerous charges, Fund B. continued rapidly to increase. For many years, the income of Fund A. alone was more than sufficient to answer all the charges thrown upon both funds, and the surplus was annually transferred to Fund B., and invested and accumulated with the income arising from the latter fund. From the Appendix to the Chancery Commissioners' Report of 1826, it appears that Fund B. then amounted to 537,800*l.* stock. In 1848, it had reached the sum of 1,094,604*l.* 10*s.* 10*d.* stock. And in 1852 it amounted to no less than 1,291,629*l.* 10*s.* 5*d.* stock, which had been purchased with cash amounting to 1,032,053*l.* 7*s.* 4*d.* At that date, however, the further accumulation of this fund wholly ceased, by the operation of the Act 15 & 16 Vict. c. 87., the 53rd section of which directed that the surplus

Ceased in
1852.

income of Funds A. and B., after answering the charges to which those funds were respectively liable, should be annually carried over and added to the “Suitors’ Fee Fund Account.”

CHAPTER IV.—THE SUITORS’ FEE FUND AND THE SURPLUS FEE FUND.

In the year 1833 a Bill was introduced into Parliament for the purpose of regulating the Proceedings and Practice of certain Offices in the Court of Chancery. The Bill proposed that certain officers of the Court should be remunerated exclusively by salaries. The principle of the Bill was novel; and the Bill was referred to a Select Committee. The Select Committee, in their Report (ordered to be printed 17th August 1833) expressed the following opinion:—“In recommending yearly salaries to be given to the “said several officers, your Committee have not omitted to consider the very difficult “question, whether payment by salary, or payment by fees, conduces most to the “efficient discharge of public duties; but on the whole they are of opinion that the “experiment of payment by salary ought to be made in these cases.” Upon the Report of the Select Committee the Bill passed; and on the 28th of August 1833 it received the Royal assent, as the Act of the 3 & 4 Will. 4. c. 94.

Lord Brougham’s Chancery Regulation Act.

Opinion of Select Committee.

This Act, which is generally known as “Lord Brougham’s Chancery Regulation Act,” established the Suitors’ Fee Fund. It abolished certain offices in the Court of Chancery; and enacted that there should be six Registrars, an officer to be called the Master of Reports and Entries, a Clerk of Reports, two Clerks of Entries, and 10 Clerks of Accounts, and a Clerk of Affidavits with an assistant clerk.

It directed that, as vacancies might occur in the Office of Six Clerks, such vacancies should not be filled up until the number should be reduced to two; and that all fees and emoluments which would have accrued to any Six Clerk, through whose death or resignation a vacancy might occur, if he had lived and continued in office, should be received by, and accounted for on oath, and paid by the surviving or continuing Six Clerks into the Bank to the credit of the Accountant-General, to be placed “to the credit of an “account to be entitled ‘The Suitors’ Fee Fund Account.’”

Origin of Suitors’ Fee Fund.

It was also enacted that there should be paid by the Accountant-General, out of the Suitors’ Fee Fund Account, to the several officers named in the Schedule to the Act, the several salaries set opposite their names.

Sect. 37 enacted that it should be lawful for the Lord Chancellor, with the advice and concurrence of the Master of the Rolls and the Vice-Chancellor, or one of them, to fix and settle a table of fees, to be taken by the clerks to the Masters in Ordinary, and by the Registrars and their clerks; and that the clerks to the Masters, the Registrars and their clerks, and the Master of Reports and Entries, the Clerk of the Affidavits, and the Examiners, should pay into the Bank, once in every month, all fees to be received by them; and that the sums so paid should be placed to the Suitors’ Fee Fund Account.

Table of Fees.

Sect. 38 provided that the table of fees should be laid before Parliament.

By sect. 44 the Lord Chancellor was empowered, with the advice and concurrence of the Master of the Rolls and the Vice-Chancellor, or one of them, to direct that the fees authorized by the Act to be taken, might be varied, and increased or reduced in amount, as circumstances might require.

By sect. 48 the Lords of the Treasury were empowered to grant compensations to be paid out of the Suitors’ Fee Fund Account to the holders of offices, the emoluments of which would be abolished or diminished by the Act, provided that an account of all such compensations should be laid before Parliament.

The Act of 5 & 6 Vict. c. 103. (passed in 1842) abolished the offices of Clerks of Enrolment, and their Deputies, Controller of the Hanaper, Six Clerk, Sworn Clerks, and Waiting Clerks. It established in lieu of those offices the office of Clerk of Enrolments, Clerks of Records and Writs, and Taxing Masters. It enacted that, except so far as the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-Chancellors for the time being or any two of them should from time to time by any order otherwise direct, all fees for business performed by the officers of the abolished offices, and which should be performed by any officer of the Court of Chancery either under the provisions of the Act or any order duly made for providing for the performance of such business, should continue payable; and that all fees to continue payable, should be received by the officers of the Court by whom the business should be done, and should be paid into the Bank to the Suitors’ Fee Fund Account, at such times and under such regulations as the Lord Chancellor with such advice and consent as aforesaid, should by any order direct. It was also enacted that it should be lawful for the Lord Chancellor with such advice and consent as aforesaid from time to time by any order

5 & 6 Vict. c. 103.

to impose such fees on any proceedings in the Court of Chancery, or on business in any of the offices of the Court as he might think necessary or expedient for maintaining the Suitors' Fee Fund.

Fund D.

Both the Act 3 & 4 Will. 4. c. 94., and the Act 5 & 6 Vict. c. 103., provided that, if at the end of any year, there should be a surplus standing to the credit of the Suitors' Fee Fund (Fund C.), after payment of the charges thereon, the Lord Chancellor might order the same, or such part thereof as he should think fit, to be invested in Government securities in the name of the Accountant-General, to be placed to a separate account, to be entitled "Account of moneys placed out to provide for the officers of the High Court of Chancery" (Fund D.), and might in like manner order the accruing dividends on such securities to be carried to the same account and to be re-invested and accumulated therewith. On the other hand, in the event of there being at any time a deficiency in Fund C. for payment of the salaries and other expenses charged thereon, the Lord Chancellor was empowered to direct the Accountant-General from time to time to make good such deficiency by resorting to the interest and dividends to arise from Fund D., or in case of need by a sale of a portion of the capital thereof, and further, in case the capital and interest of Fund D. should be at any time insufficient to meet any such deficiency, then the Lord Chancellor might direct the Accountant-General from time to time to resort to the income of the Suitors' Fund for the purpose of making good the deficiency.

For several years after the passing of these Acts there was a considerable annual surplus on the Suitors' Fee Fund Account, Fund C., arising from the excess of fees received from the Suitors and paid over to that account beyond the charges thrown upon it, and that, notwithstanding large reductions in the fees from time to time effected by successive orders of the Court. This surplus was carried over to a separate account, and invested as directed by these Acts, and the sums so invested constitute Fund D., which consists of 201,028*l.* 2*s.* 3*d.* consols.

Select Committee on Fees.

First Report, Parl. Paper, No. 307.

In 1847 and 1848 the whole subject of fees in the Courts of Law and Equity was investigated by a Committee of the House of Commons, who made two Reports, the first in 1848, and the second in 1849. The first Report contained the following resolutions:—

"That the amount required for the maintenance of the Court of Chancery, which the income arising from the Suitors' Fund is insufficient to pay, should be raised in the following manner, viz.:—

"1. That a poundage of one-half per cent. should be paid on the investment of all sums of money paid into Court, and one-half per cent. on the payment of all dividends, and one-half per cent. on the passing of the accounts of all Receivers.

"2. That a fee of sufficient amount to make up the rest of the income required should be paid on every order pronounced by the Court.

"That no other fee of any description be taken in any office of, or connected with, the Court of Chancery."

The second Report, after re-stating the foregoing resolutions, proceeded as follows:—

Second Report, 1849, No. 559.

"After much consideration of these resolutions, your Committee have seen reason for modifying, in some respects, the recommendation therein contained. They are of opinion that, in adopting, in lieu of fees, a per-centage charge, as recommended on a portion of the business in the Court of Chancery, provision should be made that the produce of such per-centage should not, at any time, exceed a moiety of the total amount produced by the fees and per-centage together; that the per-centage should not exceed 10*s.* per 100*l.*, and that, as opportunities occur for diminishing the charge on suitors, care should be taken to reduce the per-centage, and the other fees in equal proportion.

"That the Court should have the same power of directing the parties to suits and other proceedings to bear the whole or any part of the expense of such per-centage, as it now exercises with relation to the costs of such suits and proceedings.

"Your Committee are of opinion that, with regard to the convenience of the suitor, and expedition of business, the fees should be consolidated; but in lieu of their former recommendation, that a fee should be paid on every order pronounced by the Court, they would suggest that the consolidation and distribution of them, in the different stages of the suit, should be fixed by an order of the Lord Chancellor.

"That the system of brokerage on Suitors' Funds be discontinued, and that the Accountant-General be paid by a salary, and that only the balance of the stock required to be bought or sold in each day be bought and sold by the broker, and that the one-eighth per cent. on the funds transferred, thereby saved to the suitor, and which, but for this alteration, would have been actually bought and sold, should be paid to the Suitors' Fee Fund for the benefit of the suitors."

The recommendations as to levying a per-centage on the funds of the suitors coming into Court, and as to buying and selling stock for the suitors, were not adopted. The other recommendations of the Committee on Fees were carried into effect by the Act of 15 & 16 Vict. c. 87. (passed in 1852), intituled "An Act for the Relief of the Suitors of the High Court of Chancery." By this Act fixed salaries were substituted for fees throughout all the offices of the Court. The Lord Chancellor was empowered to vary, reduce, or abolish any of the fees payable in relation to the proceedings of the Court, to substitute other fees in lieu thereof, and to direct that all such fees should be collected by means of stamps, under the direction of the Commissioners of Inland Revenue, who were to keep separate accounts thereof, and to pay the moneys received and collected in respect thereof (after deducting their expenses) into the Bank, to the credit of the Accountant-General, "The Suitors' Fee Fund Account.*" The Accountant-General's share of the brokerage was to be paid to the credit of the same account. Some offices were altogether abolished, and the emoluments of others reduced; and provision was made for giving compensation to the holders of such offices, which compensations, together with various superannuations and retiring allowances, were charged upon and directed to be paid out of the income of the Suitors' Fund. The 53rd section of the Act directed that the surplus income arising from the Suitors' Fund, instead of being invested and accumulated, should be carried over to the Suitors' Fee Fund account, and become part thereof; and it was provided that the annual surplus if any of the Suitors' Fee Fund might be invested in Government securities, and added to Fund D., and that any deficiency in Fund C. might from time to time be made good out of the income or capital of Fund D.

Suitors' Relief Act.

The Suitors' Further Relief Act of 1853 (16 & 17 Vict. c. 98.) varied the provisions of the 53rd section of the Suitors' Relief Act, 1852, by enacting that the dividends which had arisen and which should arise from 201,028*l.* 2*s.* 3*d.* consols, which was the amount then standing to the credit of Fund D., should be carried over by the Accountant-General to the Suitors' Fee Fund Account, and become part thereof.

Suitors' Further Relief Act.

Since the passing of the Suitors' Relief Act, no addition has or could have been made to Fund B., and no addition has in fact been made to Fund D. The surplus interest arising from the stocks and securities constituting the three funds A., B., and D. has been from year to year carried over to Fund C., which is entirely an income account, and the surplus of this latter fund has to a considerable extent been employed in the further reduction of the fees of Court.

CHAPTER V.—THE SOLICITOR TO THE SUITORS' FUND.

The Suitors' Fund and the Suitors' Fee Fund are in some respects under the supervision of an officer called "the Solicitor to the Suitors' Fund." There has always been a Solicitor to the Suitors' Fund since that Fund was established. But Mr. Sanders, in his collection of Chancery Orders, states that the first order which he had been able to find appointing a Solicitor to the Suitors' Fund is dated the 26th of July 1828. The present Solicitor to the Suitors' Fund, who is a practising solicitor, was appointed by an Order of the Lord Chancellor, dated the 29th of October 1842.

Minutes of Evidence taken before the Select Committee on Fees (1850) Q. 2,841.

The duties of the Solicitor to the Suitors' Fund are as follows:—

1. To draw all Orders, reducing, varying, or abolishing the fees imposed on the suitors, and to get such Orders signed by the Lord Chancellor and published.
2. To inquire into and check all claims for payments out of either the Suitors' Fund or the Suitors' Fee Fund, and to submit the same to one of the Equity Judges for his allowance thereof.
3. To draw all Orders authorizing payments either out of the Suitors' Fund or the Suitors' Fee Fund, and to get such Orders signed by the Lord Chancellor, and a duplicate thereof issued by the Registrar, and to transmit such duplicate to the Bank of England when it relates to the Suitors' Fund, or to the Accountant-General's Office when it relates to the Suitors' Fee Fund, and to attend at the Accountant-General's Office to identify the persons named in the Order on the delivery of the Accountant-General's draft for the amount mentioned in such Order, and to furnish the Accountant-General with a duplicate of every order relating to the Suitors' Fund under which payments are made without draft.

Sanders' Chancery Orders, 934. Duties of Solicitor to the Suitors' Fund.

By Consolidated Chancery Order 12, Rule 5, it is provided, that where application is intended to be made for the discharge of any prisoner for contempt, and for the payment out of the Suitors' Fund of the costs of such contempt, notice thereof shall be served on the Solicitor to the Suitors' Fund.

* It appears from the Accountant General's annual Returns (see Appendix, page 150) that in some instances fees payable to the Suitors' Fee Fund are still collected in money.

Income of
Solicitor
Increased in
1849.
Second Re-
port from the
Select Com-
mittee on
Fees in
Courts of
Law and
Equity, p. x.
23 & 24 Vict.
c. 149.

Under the Order of the 29th October 1842, the Solicitor to the Suitors' Fund receives 600*l.* per annum in lieu of costs out of the income of the Suitors' Fund. By an Order of November 1849, the Lord Chancellor directed that an additional 600*l.* a year should be paid to him out of the same Fund. With reference to the latter Order the Committee on Fees made the following remarks: "Your Committee cannot help viewing with considerable jealousy the power which the Lord Chancellor is thus able to exercise of burdening, at pleasure, the Suitors' Fund with permanent charges; and while they are not disposed to call in question the particular exercise of it in this case, they are of opinion that the sanction of Parliament should always be obtained before any such charges are laid upon this fund." By the Act of 23 & 24 Vict. c. 149. (passed in 1860), intituled "An Act to make better provision for the relief of prisoners in contempt of the High Court of Chancery and pauper defendants, and for the more efficient dispatch of business in the said Court," additional duties (not connected with either the Suitors' Fund or the Suitors' Fee Fund,) were imposed on the Solicitor to the Suitors' Fund, and the Lord Chancellor was authorized to direct an additional salary not exceeding 300*l.* a year to be paid to him out of the income of the Suitors' Fund.

CHAPTER VI.—CHARGES ON THE INCOME OF THE SUITORS' FUND, AND MODE OF PAYING THE SAME.

The income of the Suitors' Fund is charged with salaries to the Accountant-General and his Clerks; with retiring allowances to officers; with compensations in respect of some of the abolished offices; with salaries to some officers of the Court; and with the expenses of some of the Courts and of some of the offices, as well as with other miscellaneous payments which are shown in the Accountant-General's Annual Return.

There are also charged on the income of this fund by the Act of 1 Will. 4. c. 36. s. 15, Rule 7, the costs occasioned by the non-compliance with the process of the Court by suitors who are detained in prison and on inquiry prove to be unable on account of poverty to employ a solicitor.

The payments out of the Suitors' Fund to the Surveyor, the Solicitor to the Suitors' Fund, and payments on account of costs of contempt, and expenses of courts and offices, are made by drafts from the Accountant-General. The other payments out of this Fund are made by the Bank under Orders drawn by the Solicitor to the Suitors' Fund, and signed by the Lord Chancellor, without any draft from the Accountant-General. Under the Act of 9 & 10 Vict. c. 81. income tax is deducted by the Bank from all salaries, compensations, and pensions, charged upon the Suitors' Fund, and payable without any draft. Income tax is also deducted from the Surveyor's salary; and from the 300*l.* paid to the Solicitor to the Suitors' Fund under the 23 & 24 Vict. c. 149., but not from the 1,200*l.* paid to him in lieu of costs.

CHAPTER VII.—CHARGES ON THE SUITORS' FEE FUND, AND MODE OF PAYING THE SAME.

The charges on the Suitors' Fee Fund imposed by the Acts 3 & 4 Will. 4. c. 94., and 5 & 6 Vict. c. 103., the Suitors' Relief Act and other Acts, comprise such compensations for abolished offices and loss of fees, and such salaries as are not charged on the Suitors' Fund, the rent of hired buildings, the expenses of copying documents in some of the offices, the salary of 2,700*l.* per annum paid to the present Accountant-General in lieu of brokerage, increased salaries paid to some of the Accountant-General's clerks in lieu of fees, and other miscellaneous payments.

The Suitors' Fee Fund is also burdened with the charges connected with the establishment in Lunacy. These charges have recently been much increased; and they are now so largely in excess of the contributions which the Suitors' Fee Fund derives from per-centages on Lunatics' estates and fees on proceedings in Lunacy that we think it right to call attention to the subject.

By the Act 3 & 4 Will. 4. c. 36. the Lord Chancellor was empowered to appoint Visitors to superintend and report to him upon the care and treatment of Lunatics; a secretary to the Visitors was to be appointed, and in order to raise a fund for payment of the salaries and expenses of the Visitors and their secretary and the other expenses of the Act, a per-centage, not exceeding one and a half pound per cent., was to be imposed on the clear annual incomes of the persons found Lunatics. The per-centage was to be paid into a distinct account, entitled "The Account of the Board of Visitors, for the better Care and Treatment of Lunatics," out of which the salaries and expenses were paid.

By the Act 5 & 6 Vict. c. 84. the Lord Chancellor was empowered to appoint two Commissioners in Lunacy, and provision was made for appointing officers, clerks, and

messengers in the Commissioners' office; the Lord Chancellor was to fix a table of fees to be received by the clerks to the Commissioners, and by the Secretary of Lunatics; all fees so received were to be paid into the Suitors' Fee Fund and the salaries and allowances of the Commissioners and Secretary of Lunatics, the salaries of the officers, clerks, and messengers, and the retiring pensions of the Commissioners were charged on the Suitors' Fee Fund.

The 14th Section of the Suitors' Relief Act, 1852, authorized the Lord Chancellor to abolish all fees payable in respect of proceedings in Lunacy, and to substitute in lieu thereof a per-centage or *ad valorem* payment on the clear annual income of lunatics, and on the amount of the taxed costs incurred in proceedings in Lunacy; and it directed the amount of such per-centage or *ad valorem* payment to be paid into the Bank, to the credit of the Accountant-General, to the Suitors' Fee Fund account, but it was provided that the amount to be raised by such per-centage or *ad valorem* payment should not exceed the amount which might from time to time be required to provide for the payment of the salaries, expenses, and sums of money payable under the Acts for the time being in force with respect to Lunatics. 15 & 16 Vict. c. 87.

The Lunacy Regulation Act of 1853, (16 & 17 Vict. c. 70.) repealed the Acts 3 & 4 Will. 4. c. 36. and 5 & 6 Vict. c. 84., and the provisions of the Suitors' Relief Act relating to Lunatics. It enacted that there should be two Masters in Lunacy, at salaries of 2,000*l.* a year, a Registrar in Lunacy, at such salary as the Lord Chancellor, with the approbation of the Commissioners of Her Majesty's Treasury, had directed or should direct; and such officers, clerks, and messengers, to be appointed by the Masters and Registrar, as the Lord Chancellor, with the like approbation, had directed, or should from time to time direct. The 12th section of the Act empowered the Lord Chancellor to order annuities not exceeding 1,200*l.* a year each, to be paid to the Masters if or when they should be afflicted with some permanent infirmity disabling them from the due execution of their offices, and should be desirous of resigning the same. There were to be two Medical and one Legal Visitor, a Secretary to the Visitors, and a Clerk to the Secretary, at various salaries, and with allowances for travelling and other expenses. And the 25th section enacted that all salaries, annuities, and allowances continued or given by or under the Act, should be payable out of the Suitors' Fee Fund; and after reciting that it would greatly facilitate the simplification and improvement of the practice in Lunacy, and would be attended with convenience and saving of expense to the estates of Lunatics, that the charges incident to the administration of the estates of Lunatics under the authority of the Lord Chancellor should be defrayed in part by means of a per-centage graduated in an equitable manner as between the richer and poorer estates, and in part by means of fees on proceedings, directed that the per-centage on the respective clear annual incomes of all Lunatics to be so paid should be as follows:— 16 & 17 Vict. c. 70.

Four per cent. for each clear annual income amounting to 100*l.* and not amounting to 1,000*l.*, but so that no larger sum be payable in any such case, in any one year, than 30*l.*

Three per cent. for each clear annual income amounting to 1,000*l.* and not amounting to 5,000*l.*, but so that no larger sum be payable in any such case, in any one year, than 100*l.*

Two per cent. for each clear annual income amounting to 5,000*l.* and upwards, but so that no larger sum be payable in any such case, in any one year, than 200*l.*

This Act also substituted certain fees, of limited amount, on each Order and Report, in lieu of the fees then payable in relation to the proceedings in Lunacy, and directed that the Fees on Orders and Reports should be collected by means of Chancery fee stamps, and the produce paid by the Commissioners of Inland Revenue into the Suitors' Fee Fund. Sect. 25.

The Lord Chancellor was empowered from time to time to alter the rates of per-centage, but not so as to raise them above the rates prescribed by the Act. Sect. 29.

In pursuance of this Act, the account entitled the "Account of the Board of Visitors for the better Care and Treatment of Lunatics," was closed on the 3rd of December 1853, and the balance standing to the credit of the account on that day was carried over to the Suitors' Fee Fund. Sect. 30.

The Lunacy Regulation Act, 1862 (25 & 26 Vict. c. 86.), empowered the Lord Chancellor to allow retiring pensions to the then Medical Visitors. It enacted that the Medical Visitors to be appointed after the passing of the Act, and the Legal Visitor should receive salaries of 1,500*l.* each; that the Lord Chancellor might order superannuation allowances to be paid to any officer in Lunacy who had served for 20 years and should be desirous of retiring, or who was disabled by permanent infirmity; and that all annuities and salaries ordered to be paid in pursuance of the Act should be payable out of the Suitors' Fee Fund. 25 & 26 Vict. c. 86.

The effect of these Acts upon the Suitors' Fee Fund will be seen by a comparison of the following statements:—

Appendix, No. 28, p. 123. STATEMENT of the total Amount payable in respect of the Offices in Lunacy and the Officers thereof, including Salaries, Compensations, Rent and Expenses (from a Return furnished 23rd March 1863).

SALARIES.	£	s.	d.	£	s.	d.
Two Masters in Lunacy at 2,000 <i>l.</i> each	-	-	-	4,000	0	0
First Clerk to ditto	-	-	-	800	0	0
Two Clerks to ditto at 600 <i>l.</i> each	-	-	-	1,200	0	0
One Clerk at	-	-	-	350	0	0
One ditto	-	-	-	300	0	0
Two ditto at 250 <i>l.</i> each	-	-	-	500	0	0
One ditto	-	-	-	200	0	0
One ditto	-	-	-	150	0	0
Registrar in Lunacy	-	-	-	800	0	0
Two clerks to ditto at 350 <i>l.</i> each	-	-	-	700	0	0
One ditto at	-	-	-	150	0	0
One ditto at	-	-	-	80	0	0
Two Medical Visitors at 1,500 <i>l.</i> each	-	-	-	3,000	0	0
One Legal Visitor	-	-	-	1,500	0	0
One Secretary to Visitors	-	-	-	300	0	0
First Clerk to Visitors	-	-	-	300	0	0
Two Clerks to ditto at 250 <i>l.</i> each	-	-	-	500	0	0
					14,830	0 0

RETIRING PENSION AND COMPENSATION.

John Bright and Henry Herbert Southey, late Medical Visitors of Lunatics, 250 <i>l.</i> each	-	-	-	500	0	0
Edward Winslow, late Master in Lunacy	-	-	-	1,000	0	0
Charles Knight Murray, late one of the Commissioners in Lunacy	-	-	-	150	0	0
					1,650	0 0

RENT.

Office of Masters in Lunacy and Visitors of Lunatics	-	-	-	670	0	0
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EXPENSES.

Travelling Expenses of the Masters in Lunacy for the Year ending November 1862	-	-	-	750	10	6
Ditto of the Visitors in Lunacy for ditto	-	-	-	1,128	17	0
Expenses incurred for stationery, coals, candles, furniture, repairs, and fittings in the Offices of the Masters and Visitors in Lunacy	-	-	-	663	6	0
Expenses incurred in the Office of the Registrar in Lunacy for stationery, copying, candles, coals, and other disbursements	-	-	-	221	17	9
					2,764	11 3

Total Amount charged on the Suitors' Fee Fund - £19,914 11 3

Appendix, Nos. 27, 29. pp. 122 & 123. Statement of the Contributions to the Suitors' Fee Fund, from per-centages on Lunatics' Incomes and Fees on Proceedings in Lunacy for the year ending the 28th of October 1862.

	£	s.	d.	£	s.	d.
Amount of Incomes on which the rate of 4 <i>l.</i> per cent. was payable	121,893	0	0	4,875	14	4 $\frac{1}{2}$
Ditto 3 <i>l.</i> per cent. ditto	-	-	-	3,291	0	0
Ditto 2 <i>l.</i> per cent. ditto	-	-	-	2,832	6	9 $\frac{1}{2}$
435 Reports and Certificates having each 1 <i>l.</i> Stamp affixed	-	-	-	435	0	0
3 Requests to attend Court, having each 1 <i>l.</i> Stamp affixed	-	-	-	3	0	0
306 Orders, having each 2 <i>l.</i> Stamp affixed	-	-	-	612	0	0

Total Amount contributed to the Suitors' Fee Fund - £12,049 1 2 $\frac{1}{2}$

Difference. Difference between the Amount charged and the Amount contributed - £7,865 10 0 $\frac{1}{2}$

The Accountant-General's returns for the years 1847, 1860, and 1863, which will be found in the Appendix, pages 137, 29, and 150, show the amounts charged on the Suitors' Fee Fund under the different Lunacy Acts.

	£	s.	d.
In 1847, under 5 & 6 Vict., the amount charged on the Suitors' Fee Fund was	10,293	11	6
In 1860, under 5 & 6 Vict. and the Lunacy Regulation Act, 1853	-	14,580	15 3
In 1863, under 5 & 6 Vict. and the Lunacy Regulation Acts, 1853 and 1862	-	20,930	14 10*

Mode of paying charges on Suitors' Fee Fund. The various charges on the Suitors' Fee Fund are paid under orders drawn by the Solicitor to the Suitors' Fund, and signed by the Lord Chancellor. A duplicate of every order is issued by one of the Registrars, and transmitted by the Solicitor to the Suitors' Fund to the Accountant-General. On receipt of the duplicate order the Accountant-General issues a draft for the amount mentioned in the order. The draft is paid in the same manner as a draft for payment of money out of Court.

* This amount seems to include a sum of 500*l.* in respect of the Masters' salaries properly attributable to the expenses of the preceding year.

The payments out of the Suitors' Fee Fund for compensations and salaries are made in full without deducting income tax. The result is, that so much of the income of the Suitors' Fee Fund as is derived from the surplus income of the Suitors' Fund and the income of Fund D. pays income tax twice. The tax is deducted before the dividends of the Suitors' Fund and Fund D. are paid to the Accountant-General; and those dividends again pay income tax when they come to the hands of the recipients of the various salaries and compensations charged on the Suitors' Fee Fund.

The loss to the Suitors' Fee Fund from not deducting income tax on salaries and compensations (taking the income tax at 7*d.* in the pound) amounts to upwards of 1,500*l.* a year. Income tax not deducted.
Loss thereby.

CHAPTER VIII.—ANNUAL RETURN AS TO THE SUITORS' FUND AND THE SUITORS' FEE FUND.

The Act of 5 Vict. c. 5. s. 63. enacts that the Accountant-General shall annually cause to be laid on the table of the House of Commons a return showing the state of the several funds in his name, called the Suitors' Fund and the Suitors' Fee Fund, and the charges on the same funds respectively. An analysis of this return is made by the Accountant-General and transmitted by him to the Home Office for insertion in the Judicial Statistics.

The following are Copies of the Analyses of the Annual Returns for the Years 1862 and 1863:

1862.

An Analysis of the Receipts and Payments out of the Suitors' Fund for the Year ending 1st October 1862, and of the Suitors' Fee Fund for the Year ending the 24th of November 1862.

SUITORS' FUND.				£	s.	d.
Balance of cash on 1st October 1861	-	-	-	18,820	7	6
Dividends of 3,897,854 <i>l.</i> 18 <i>s.</i> 1 <i>d.</i> stock	-	-	-	112,550	11	6
Rent of Master's Office let to Commissioners of Patents	-	-	-	550	0	0
				131,920	19	0
Payments	-	-	-	59,184	7	10
Carried over to Suitors' Fee Fund	-	-	-	30,405	11	11
				89,589	19	9
Balance of cash on 1st October 1862	-	-	-	42,330	19	3
SUITORS' FEE FUND.						
Interest brought over during the year from Suitors' Fund	-	-	-	30,405	11	11
" from money arising by sale of the Six Clerks' Office	-	-	-	43	16	4
" from "moneys placed out to provide," &c. (stock purchased with surplus fees)	-	-	-	5,804	13	8
Brokerage paid in by the Accountant-General	-	-	-	5,159	5	4
Fees levied on the Suitors	-	-	-	90,864	13	0
Total receipts	-	-	-	132,278	0	3
Interest brought over from Suitors' Fund after the close of the year ending November 1862, belonging to the income thereof	-	-	-	25,698	8	3
Total income	-	-	-	157,976	8	6
Payments	-	-	-	152,323	13	8
Excess of income over payments for the year	-	-	-	£ 5,652	14	10

The balance of cash to the credit of the Suitors' Fee Fund account on the 24th of November 1861 (the beginning of the year for which the return is made) was 90,318*l.* 2*s.* 11*d.*, and if that sum be added to the above excess of income over payments for the year (5,652*l.* 14*s.* 10*d.*) and the above sum of 25,698*l.* 8*s.* 3*d.* be deducted from the total there will result 70,272*l.* 9*s.* 6*d.*, which was the balance of cash to the credit of the same account on 24th November 1862.

ANALYSIS of the above Payments, distinguishing those charged on each of the above two Funds.

	Total.	Suitors' Fund.	Suitors' Fee Fund.
	£ s. d.	£ s. d.	£ s. d.
Compensation (including terminable salaries) in respect of abolished offices	58,492 12 10	25,332 15 5	33,159 17 5
Salaries of officers	119,294 14 1	17,870 3 11	101,424 10 2
Pensions to retired officers	11,794 3 1	11,743 4 0	50 19 1
Rent, &c., of offices	2,607 18 5	-	2,607 18 5
Expenses of copying in the offices	8,198 8 0	-	8,198 8 0
Miscellaneous payments	11,120 5 1	4,238 4 6	6,882 0 7
	£ 211,508 1 6	59,184 7 10	152,323 13 8

1863.

An Analysis of the Receipts and Payments out of the Suitors' Fund for the Year ending the 1st of October 1863, and of the Suitors' Fee Fund for the Year ending the 24th of November 1863.

SUITORS' FUND.

	£	s.	d.
Balance of cash on 1st October 1862	42,330	19	3
Dividends of 3,897,854 <i>l.</i> 18 <i>s.</i> 1 <i>d.</i> stock	112,772	3	5
Rent of Masters' Offices let to Commissioners of Patents	490	0	0
	155,593	2	8
Payments	57,664	10	11
Carried over to Suitors' Fee Fund	80,958	6	5
	138,622	17	4
Balance of cash on 1st October 1863	16,970	5	4

SUITORS' FEE FUND.

Interest brought over during the year from Suitors' Fund	-	-	-	80,958	6	5
" from money arising by sale of the Six Clerks' Office	-	-	-	65	18	4
" from "moneys placed out to provide," &c. (stock purchased with surplus interest)	-	-	-	-	-	-
	-	-	-	8,732	3	-
Brokerage paid in by the Accountant-General	-	-	-	-	-	-
	-	-	-	4,797	8	6
Fees levied on the Suitors	-	-	-	-	-	-
	-	-	-	96,026	19	9
Paid in by the Solicitor to the Suitors' Fund, received by him in respect of rent of chambers	-	-	-	-	-	-
	-	-	-	-	-	-
	-	-	-	86	12	6
Total receipts	-	-	-	-	-	-
	-	-	-	190,667	8	7
Deduct interest brought over during the year, but not belonging to the income thereof, viz. :—						
From Suitors' Fund	-	-	-	-	25,698	8 3
" " From money arising by sale," &c.	-	-	-	-	21	18 2
" " "Moneys placed out to provide," &c.	-	-	-	-	2,902	16 10
				28,623	3	3
Total income	-	-	-	-	-	-
	-	-	-	162,044	5	4
Payments	-	-	-	-	-	-
	-	-	-	161,687	9	1
Excess of income over payments for the year	-	-	-	-	-	-
	-	-	-	£	356	16 3

The balance of cash to the credit of the Suitors' Fee Fund account on the 24th of November 1862 (the beginning of the year for which the Annual Parliamentary Return is made) was 70,272*l.* 9*s.* 6*d.*, and if to that amount there be added 356*l.* 16*s.* 3*d.* (the excess of income over payments for the year), and also 28,623*l.* 3*s.* 3*d.* (interest brought over during the year, but not properly belonging to the income thereof), there will result 99,252*l.* 9*s.*, which was the balance of cash to the credit of the same account on 24th November 1863.

ANALYSIS of the above Payments, distinguishing those charged on each of the above two Funds.

	Total.	Suitors' Fund.	Suitors' Fee Fund.
Compensation (including terminable salaries)	£ s. d.	£ s. d.	£ s. d.
in respect of abolished offices	56,964 19 9	23,794 18 7	33,170 1 2
Salaries of officers	124,844 16 9	18,029 17 5	106,814 19 4
Pensions to retired officers	13,545 4 3	11,733 7 9	1,811 16 6
Rent, &c., of offices	2,193 7 5	- - -	2,193 7 5
Expenses of copying in the offices	10,523 19 9	- - -	10,523 19 9
Miscellaneous payments	11,279 12 1	4,106 7 2	7,173 4 11
	£ 219,352 0 0	57,664 10 11	161,687 9 1

CHAPTER IX.—APPEAL DEPOSIT ACCOUNT.

By an order of Lord Chancellor Jeffreys, dated the 12th of May 1686, it was ordered "that noe rehearing or appeale shall for the future be granted, but the party appealing shall deposite in the hands of the Register the sum of 5*l.* to recompense the other party in costs in case on such rehearing he shall not be relieved." An order of the Lord

Keeper, Sir Nathan Wright, dated the 30th of April 1701, raised the deposit on appeals to 10/. The General Orders of the 3rd of April 1828 directed that the deposit on every petition of appeal or rehearing should be increased to 20/. to be paid to the adverse party when the decree or order appealed from was not varied in any material point, together with the further taxed costs occasioned by the appeal or rehearing unless the Court should otherwise order.

Sanders' Chancery Orders, 420.
Sanders' Chancery Orders, 722.

Before the passing of the Suitors' Relief Act in 1852 appeal deposits remained with the Senior Registrar until the parties entitled applied to him for payment. However it frequently happened that deposits were not claimed, and a large fund accumulated in the hands of the Senior Registrar. Investments in stock were from time to time made out of the fund, and the interest on the investments was received by the Senior Registrar for his own use.

Accumulation of deposits.

The 41st sect. of the Suitors' Relief Act directed that the deposits on appeals then payable should continue to be payable and should be received by the Senior Registrar for the time being, who should once in every three months pay all sums so received by him into the Bank to the credit of the Accountant-General. The several sums when so paid were to be placed to an account to be entitled "The Appeal Deposit Account," and the moneys which should from time to time be standing to such account were to be paid and applied as the Court of Chancery should from time to time in that behalf order or direct.

15 & 16 Vict. c. 87. s. 41.

On the passing of this Act the Senior Registrar paid into the bank to the Appeal Deposit Account the amount of cash remaining in his hands in respect of deposits, and he also transferred to the same account 10,000*l.* bank 3*l.* per cent. annuities which represented the accumulated amount of unclaimed deposits.

Previously to 1852 the Senior Registrar kept an account containing the title of the causes appealed, and the date of the receipt and payment of each appeal deposit; and unclaimed deposits could then be readily traced. Since 1852 the Senior Registrar has continued the account, but of course only as regards receipts. And as the amount of appeal deposits received during three months is paid by the Registrar into the Bank in one sum the particular deposits are not distinguishable in the hands of the Accountant-General.

CHAPTER X.—MONEY ARISING BY SALE OF THE SIX CLERKS' OFFICE.

By the Acts of 14 Geo. 3. c. 43. and 15 Geo. 3. c. 56. provision was made for rebuilding the office called the Six Clerks' Office and the offices thereto belonging upon a site in the garden of Lincoln's Inn, and the latter Act provided that when the new building should be completed the old building and ground should be sold and the purchase money paid into the Bank in the name of the Accountant-General, and that the interest arising therefrom should be paid to the Six Clerks in lieu and recompense of the chambers belonging to their several offices and for the purpose of keeping the said offices in repair, and that what should be so ordered to be paid to the Six Clerks should be considered as a freehold estate in them as coming in lieu of their chambers. The old ground and buildings in Symonds Inn were accordingly sold, and the money arising from the sale was laid out in the purchase of 2,017*l.* 9*s.* 5*d.*, 3*l.* per Cent. Annuities, in the name of the Accountant-General, in trust to the account, "Money arising by sale of the Six Clerks' Office." By an Order of the Court of Chancery, dated the 5th of May 1783, it was ordered that 500*l.*, 3*l.* per Cent. Annuities, part of the said 2,017*l.* 9*s.* 5*d.*, 3*l.* per Cent. Annuities, should be set apart for keeping the Six Clerks' Office and Enrolment Office in a continued state of repair.

14 Geo. 3. c. 43.
15 Geo. 3. c. 56.

Order, 5th May 1783.

By the Act 10 Geo. 4. c. 116. (Local and Personal), entitled "An Act to provide for the Repair of the Six Clerks' and Chancery Enrolment Offices, and the better Preservation of the Records of the Court of Chancery," after reciting that the Six Clerks' and Enrolment Offices were very much out of repair, and that there was no fund applicable to the purpose except the dividends of the said sum of 500*l.*, it was enacted that the Lord Chancellor might order the Six Clerks' Offices to be repaired and improved in like manner as the other offices belonging to the Court of Chancery (out of the income of the Suitors' Fund) and that the Accountant-General should transfer the said sum of 500*l.*, 3*l.* per Cent. Annuities, and all dividends that might be due thereon, to Fund A., so that the same might sink into and form part thereof.

10 Geo. 4. c. 116.

The Act 5 & 6 Vict. c. 103., directed that the dividends on the 1,517*l.* 9*s.* 5*d.*, 3*l.* per Cent. Annuities, remaining to the account of "Money arising by sale of the Six Clerks' Offices," should be carried to and become part of the Suitors' Fee Fund account.

5 & 6 Vict. c. 103.

CHAPTER XI.—SUMMARY OF THE FUNDS OF THE COURT OF CHANCERY ON 1ST OCTOBER 1862.

Nos.	Short Title of the different Funds.	Designation in Report.	Amount of Stock and Securities.	Amount of Cash.	REMARKS.
1.	Funds belonging to individual suitors.	- - -	£ s. d. 49,864,214 9 2	£ s. d. 2,713,727 7 1	The stock and cash (No. 1) are subdivided in the ledgers of the Accountant-General among about 24,000 separate suitors' accounts.
2.	Suitsors' Fund - - -	Fund A. - - -	1,202,064 16 11 Consols.	42,330 19 3	Th. stock (No. 2) represents the undermentioned 2,264,744l. 1s. 10d. portion of the general cash balance in Court belonging to the suitors, invested by the Court under the authority of Parliament.
3.			1,404,160 10 9 Reduced.		
3.			570,700 16 1 Consols.		
3.	Suitsors' Fund - - -	Fund B. - - -	720,904 3 5 Reduced.	100,308 10 1	The stock (No. 3) has arisen by the investment, up to 1852, of the surplus dividends of the stock on Fund A., after providing for the charges thereon.
3.			24 6 0 New 3 per Cents.		
3.			0 4 11 East India Stock		
4.	Suitsors' Fee Fund - - -	Fund C. - - -	- - -	100,308 10 1	Fund C., is an income fund, consisting in part of the produce of the fees levied on the suitors, and is applicable to defraying salaries of the officers of the Court, and other payments charged thereon.
5.	Surplus Fee Fund - - -	Fund D. - - -	201,028 2 3 Consols.	2,902 6 10	Fund D has arisen by the periodical investment of portions of the surplus balances of Fund C. between 1833 and 1852.
6.	Appeal Deposit Account - - -	- - -	10,000 0 0 Consols.	5,312 5 2	
7.	Money arising by sale of Six Clerks' Offices.	- - -	1,517 9 5 Consols.	21 18 2	
	Total - - -	- - -	53,974,614 18 11	2,864,603 6 7	
	Cash invested on Fund A.	- - -	- - -	2,264,744 1 10	
	Balance of cash in the Bank	- - -	- - -	599,859 4 9	

SUMMARY OF THE FUNDS OF THE COURT OF CHANCERY ON 1ST OCTOBER 1863.

Nos.	Short Title of the different Funds.	Designation in Report.	Amount of Stock and Securities.	Amount of Cash.	REMARKS.
1.	Funds belonging to individual suitors.	- - -	£ s. d. 51,292,005 16 3	£ s. d. 2,799,608 9 0	On the 1st of October 1863 the number of separate Suitsors' accounts was 25,044.
2.	Suitsors' Fund - - -	Fund A. - - -	1,416,542 1 3 Consols.	16,970 5 4	On the 18th of August 1863 the sum of 200,000l., part of the general cash balance in Court belonging to the suitors, was invested in the purchase of 214,477l. 4s. 4d. Consols.
3.			1,404,160 10 9 Reduced.		
3.			570,700 16 1 Consols.		
3.	Suitsors' Fund - - -	Fund B. - - -	720,904 3 5 Reduced.	130,506 0 4	
3.			24 6 0 New 3 per Cents.		
3.			0 4 11 East India Stock.		
4.	Suitsors' Fee Fund - - -	Fund C. - - -	- - -	130,506 0 4	
5.	Surplus Fee Fund - - -	Fund D. - - -	201,028 2 3 Consols.	—	
6.	Appeal Deposit Account - - -	- - -	10,000 0 0 Consols.	5,636 10 0	
7.	Money arising by sale of Six Clerks' Offices.	- - -	1,517 9 5 Consols.	—	
	Total - - -	- - -	55,616,883 10 4	2,952,721 4 8	
	Cash invested on Fund A.	- - -	- - -	2,464,744 1 10	
	Balance of cash in the Bank	- - -	- - -	487,977 2 10	

PART III.

OBJECTIONS MADE TO THE PRESENT SYSTEM, AND IMPROVEMENTS SUGGESTED BY THE LAW SOCIETIES.

We now proceed to state briefly the objections to the present system which have been brought to our notice by the Incorporated Law Society and the Metropolitan and Provincial Law Association, and the improvements which those Societies have recommended to our consideration. In so doing we shall adhere as closely as possible to the arrangement we have adopted in the preceding parts of our Report.

CHAPTER I.—OBJECTIONS AND RECOMMENDATIONS IN REFERENCE TO THE ACCOUNTANT-GENERAL'S DEPARTMENT AND THE FORMS OF BUSINESS IN USE THEREIN.

1.—*As regards the Staff of the Accountant-General's Office.*

The Metropolitan and Provincial Law Association are of opinion that the staff is insufficient in times of pressure. They conceive that to some extent a remedy might be afforded by further subdividing the work of the Office, and they recommend that in times of pressure the Accountant-General should have power to employ accountants and their clerks in making calculations and work of that kind; and they also suggest that the Accountant-General's Department might be much relieved by making some arrangement under which tenants for life might receive their dividends directly from the Bank, without the intervention of the Accountant-General.

2.—*As regards Office Hours and Vacations.*

I. The Metropolitan and Provincial Law Association recommend that the Office should be open from 10 till 4, and that the partial attendance between 4 and 6 should be discontinued.

II. Both Societies suggest that the Office should be open on certain days during the Long Vacation for the transaction of urgent business only.

3.—*As regards the Operations of Paying Money and Transferring Stock into Court.*

I. Both Societies complain of the delays involved in these operations.

II. They both suggest that in the case of voluntary payments and voluntary transfers into Court, Orders of the Court of Chancery giving liberty to make such payment or transfer are unnecessary, and that much time and expense would be saved by abolishing them.

III. The Metropolitan and Provincial Law Association also suggest that in order to save the risk, trouble, and expense of remittances to London, some arrangement should be made by which Payments into Court from the country might be made through the country branches of the Bank of England.

IV. The Metropolitan and Provincial Law Association state that country clients frequently complain of not receiving a voucher for money paid into Court immediately on the payment being made. They suggest either that solicitors should be permitted to retain the Bank receipt instead of being required to file it with the Accountant-General, or that the Bank should furnish them with a duplicate of that receipt, or with a simple accountable receipt on behalf of the Accountant-General.

4.—*As regards Securities other than Government Securities deposited in Court.*

The Incorporated Law Society complain of the present mode of dealing with these securities. They suggest that the coupons should be cut off, and presented by some proper person at the Bank of England or at the Accountant-General's Office.

5.—*As regards the Operation of Transferring Stock and Paying Money out of Court.*

I. Both Societies suggest that the form of Orders for transfer of stock and payment of money out of Court might be simplified and improved by specifying the directions upon which the Accountant-General has to act in a tabular form in schedules subjoined to the Orders.

II. In order to prevent the delays which are occasioned by Orders being lost or mislaid, the Incorporated Law Society suggest that duplicates of the proposed schedules, after being certified by the Registrar, should be lodged with the Accountant-General and retained by him. The Metropolitan and Provincial Law Association suggest that money orders (that is, orders upon which the Accountant-General has to act) should be

entered at the Report Office in separate Books, subdivided so as to correspond with the initial letters of the Divisions of the Accountant-General's Office, and that these Books should be given into the custody of the Accountant-General.*

III. Both Societies complain of the expense of Powers of Attorney and the accompanying Affidavits of Execution, and of the expense and delay occasioned by Affidavits of Calculation, and suggest that both Powers of Attorney and Affidavits of Calculation may be safely dispensed with.

IV. The Metropolitan and Provincial Law Association comment on the circumstance that under the present system signed drafts to a large amount are kept in the custody of the clerks in the different Divisions of the Accountant-General's Office until applied for by the persons in whose favour they are drawn.

V. The Incorporated Law Society are of opinion that each chief Clerk should be directly responsible for the drafts drawn in his own Division, and should sign the drafts in his own Department.

VI. The Societies concur in thinking that the Counter Signature of the Registrar to the Accountant-General's drafts should be discontinued, as it is now little more than an empty form.

VII. The Incorporated Law Society suggest that there should be a separate department for periodical payments.

VIII. Both Societies strongly insist on the urgent necessity of providing means for receiving money and cashing the Accountant-General's drafts, either under the same roof as the Accountant-General's Office or in the immediate vicinity of it.

6.—*As regards Transcripts of Accounts.*

The Incorporated Law Society are of opinion that certificates of payments of money into the Bank and other transactions might be abolished; that the Entries in Transcripts of accounts should be extended; that Transcripts should be given out the day after they are bespoken; that in each cause it should be obligatory on the Plaintiff's Solicitor to obtain a Transcript of the account at least once a year; and that the Registrars should be authorized to act on Transcripts without requiring a certificate of the fund in Court.

7.—*As regards Book-keeping.*

I. The Societies agree in thinking that the Duplicate set of Books kept at the Bank of England ought to be discontinued.

II. The Incorporated Law Society suggest that, considering the magnitude of the transactions in the Accountant-General's Department, there ought to be a systematic Audit. They have not furnished us with the details of any plan, but they state that, in their opinion, the Audit should be continuous, and carried out by persons independent of the Accountant-General.

In addition to these various suggestions, the Metropolitan and Provincial Law Association state that it appears to them that the personal office of the Accountant-General might be abolished with advantage to the suitors, and that such abolition would expedite the business of the Department.

CHAPTER II.—OBJECTIONS AND RECOMMENDATIONS AS REGARDS THE FUNDS OF THE COURT OF CHANCERY.

1.—*As regards the present Mode of Buying and Selling Stock.*

I. The Metropolitan and Provincial Law Association state that they are not aware of any existing security to prevent undue advantage being taken of the fluctuation of the price of stock during the day, or of the power of influencing the market. They think it important that the minds of the suitors and the public should be relieved from all feeling of uneasiness and suspicion on such a point, and that it should be shown that unfairness is impossible.

II. They recommend that the office of broker to the Court of Chancery should be abolished, and that instead of buying and selling the balance of stock required on each particular day, the necessary amounts should be provided by carrying over a proper sum ascertained on the daily average price of stock from the stock on Fund A. They suggest that a deduction should be made in lieu of "jobbers' profit," and credited to the Suitors' Fee Fund.

* The orders annually drawn up by the Registrars are about 12,000 in number, whereof it is estimated that about 5,000 are money orders.

III. The Incorporated Law Society recommend a similar plan as “a saving of time and convenience to the suitor.”

2.—*As regards the Cash in Court not required by the Suitors to be invested.*

I. Both societies recommend that some arrangement should be made by means of which the suitors might receive a moderate rate of interest on their cash remaining in Court uninvested.

II. They agree in thinking that 2l. per cent. per annum would be a reasonable and proper rate of interest to allow on such cash.

PART IV.

SUGGESTED IMPROVEMENTS.

CHAPTER I.—AS REGARDS THE ACCOUNTANT-GENERAL'S OFFICE, AND THE FORMS OF BUSINESS IN USE THEREIN.

Section 1.—As regards the Financial Department of the Court of Chancery generally; and the Constitution thereof.

Having thus described the Constitution and Practice of the Accountant-General's Office, and the state of the Funds of the Court of Chancery, and having also given a brief summary of the principal objections to the present system, we proceed to lay before Your Majesty a statement of the improvements which we think ought to be introduced into the Financial Department of the Court of Chancery.

We were directed by the terms of Your Majesty's Commission to consider the subject referred to us “with especial view to the advantage of the Suitors, and to the safety, convenience, economy, and despatch in the transaction of the business of the Court.”

Keeping these objects in view, we have to report that we are satisfied of the safety of the funds of the Court under the present system. But we are of opinion that many improvements may be introduced which would tend to promote economy and despatch in the transaction of the business of the Court, and would add much to the convenience without lessening the security of the Suitors.

When the Accountant-General's Office was established, the funds of the Court of Chancery, including stock and cash, did not amount to three-quarters of a million; they now exceed fifty-six millions. Under the plan which immediately preceded the establishment of the Accountant-General's Department, the moneys and effects of the Suitors were deposited in chests, and secured by five different locks. It was hardly to be expected that a system which grew out of a plan so rude, and was devised for the management of funds of comparatively small amount, should be adapted to the requirements of the present age, and the transaction of a business so vastly increased. It is, indeed, no small credit to the framers of the regulations contained in the Act of 12 Geo. 1., that the system should have worked so well for nearly a century and a half; nor is it owing to any oversight on their part that so few improvements have been introduced during that period. They took care to invest the Court of Chancery with full power to vary or change any part of the regulations contained in the Act. But notwithstanding this power, so ample in its terms, few alterations have been made, and the forms of business in use in the Accountant-General's Office have scarcely been simplified at all. The power has remained unexercised, partly, no doubt, because the embodiment of regulations in an Act of Parliament clothed them with a fixed and permanent character, which they would not otherwise have had, partly in consequence of the nature of the system itself, which required the exact correspondence of accounts kept in different establishments, and partly from the circumstance that the individual Suitors who suffered most from the inconvenience and expensiveness of the system did not possess any ready means of making their complaints heard.

But although the forms of business in use in the Accountant-General's Office have remained nearly unaltered, the general plan, which the authors of the regulations of 1725 and the Act of 12 Geo. 1. had in view, has been almost subverted. The main feature of the original plan was destroyed in 1852 by the abolition of the account at the Report Office, which was apparently intended to be the principal account, and to form a check or audit upon all the operations of the Accountant-General. But long before the abolition of the account at the Report Office, the relative importance of the various branches of the Accountant-General's Department had been entirely changed. No one who reads the Act of 12 Geo. 1. c. 32. can fail to be struck with the circumstance that

there is scarcely any allusion to keeping books or accounts by the Masters themselves or by the Accountant-General. An account was to be kept at the Bank. Another account was to be kept at the Report Office. These were distinctly provided for, and the mode in which they were to be kept carefully prescribed; but the Act is almost silent as to the third account, which has become in process of time the most important of the three. The Masters' accounts before 1725 were private accounts; and it would appear that the Masters' accounts under the regulations of 1725 and the Accountant-General's accounts under the Act were meant to be on the same footing, or at any rate that they were not intended to form the official record of the monetary transactions of the Court.

That under these circumstances a general revision of the system should be required seems almost a matter of course. And, indeed, the propriety of such a measure has been already acknowledged. In 1850 the Select Committee of the House of Commons on Official Salaries reported that "the appointment, emoluments, establishment, and " whole system of the office of Accountant-General should undergo revision." Since the date of that Report the emoluments of the Accountant-General have been reduced, and the account at the Report Office has been abolished. But no revision of the system has taken place. In our opinion the abolition of the account at the Report Office has not rendered a revision of the system less necessary.

We therefore recommend that the Financial Department of the Court of Chancery should be remodelled and simplified. And as we consider that the embodiment of the regulations of 1725 in an Act of Parliament has been hitherto the principal obstacle to the introduction of improvements, we are of opinion:—

1. That the Act of 12 Geo. 1. c. 32. should be repealed, and that the Accountant-General's Office should be re-constructed under General Orders to be issued by the Lord Chancellor.

2. In order to facilitate the introduction of improvements from time to time, we recommend that a Standing Committee consisting of certain officers of the Court of Chancery should be appointed by the Lord Chancellor, whose duty it should be to consider any suggestions that may be made for improving the mode of transacting the business of the Office, and to report to the Lord Chancellor, at least once a year, whether any and what alterations should be made in the General Orders regulating the Department.

We would suggest that this Committee might be composed of the Solicitor to the Suitors' Fund, and one of the Registrars of the Court of Chancery, and one of the Chief Clerks to the Master of the Rolls or the Vice-Chancellors.

Having thus stated our views generally as to remodelling the Financial Department of the Court of Chancery, we proceed to notice those points in which we think the present practice requires alteration. On these various matters of detail we have endeavoured to frame our recommendations in such a way that any of them may be adopted, even if it should be thought inexpedient to alter the constitution of the Department in the manner we have proposed.

Section 2.—As regards the relations between the Accountant-General's Department and the Bank of England.

We are of opinion:—

1. That the regulation which prevents the Accountant-General from intermeddling with the suitors' moneys and effects should be preserved intact, and that the actual receipt, payment, and delivery of the moneys and securities belonging to the suitors should, as heretofore, be managed by the Bank of England; but that the system of duplicate accounts should be discontinued, and that the Bank should keep the Accountant-General's account in the same manner as it keeps the accounts of its other customers.

2. That means ought to be provided for receiving money and cashing the Accountant-General's drafts, either under the same roof as the Accountant-General's Office, or in its immediate vicinity.

3. That the Bank should be remunerated for the work which it performs for the Chancery suitors by a fixed annual payment, to be from time to time settled by the Lord Chancellor and the Governor of the Bank, with the approbation of the Lords Commissioners of Her Majesty's Treasury.

The want of a Branch Bank of England in the vicinity of the Accountant-General's Office has long been felt. In 1848 the attention of the Select Committee on Fees was directed to the subject. Mr. Parkinson, senior, the then Chief Clerk to the Accountant-General, was examined by the Committee,* and stated, that in his opinion, an arrangement

* Mr. Parkinson's evidence before the Committee on Fees is reprinted in the Appendix, p. 126.

by which drafts might be cashed in the Accountant-General's Office would be a very great benefit to the suitors, and particularly to the poorer class of suitors; and he added that he thought such an arrangement quite practicable. Both the Law Societies have expressed themselves strongly in favour of this measure. We entirely agree with them in thinking that a remedy ought to be provided for the great inconvenience and loss of time to which suitors, solicitors, and their clerks are subjected in having to go from the Accountant-General's Office to the Bank, and from one Office in the Bank to another.

We learn from the authorities of the Bank of England that there does not appear to be any inducement to the Bank to open a Branch in Chancery Lane beyond that of affording to the Court of Chancery the means of effecting its receipts and payments on the spot instead of in the City. But they state that if a proper office for the payment and receipt of money were provided, two clerks from the Bank might attend daily to make and receive cash payments. This arrangement would afford the Chancery suitors all the accommodation they require, while the cost, exclusive of carriage and risk, would be only about 700*l.* a year.

No alteration can, however, be made so long as the Bank Chancery Office is continued, and every draft, before being presented for payment, has to be taken there to be examined. We have therefore considered the two questions in immediate connexion with each other; and as we have come to the conclusion that, if the precautions suggested in Section 5, paragraphs 2 and 4, be adopted, the Bank Chancery Office may safely be dispensed with, we recommend its abolition on the ground that the duplicate system of accounts forms an insuperable obstacle to the establishment of a branch bank in the vicinity of the Accountant-General's Office.

As regards the value of the duplicate system of accounts, we have received conflicting evidence. Both the Law Societies recommend its abolition. It is considered useless by the authorities of the Bank. In a communication which we received from the Governor of the Bank their opinion on the subject is thus stated,—

Appendix,
No. 20,
p. 106.

“Before the abolition of the duplicate cause-wise accounts, formerly kept in the department of the Chancery Report Office, the Bank inquired into the working of these accounts with the view of discovering their value as a check; but their value in that respect was not made apparent, and they have ever since been considered by the officers of the Bank, assuming the accounts of the Accountant-General's Office to be properly kept, as a useless excrescence involving a great waste of time and labour to all parties.”

On the other hand, the Accountant-General attaches great importance to the Bank Chancery Office. He states that its functions may be viewed under two aspects, first, as preventing a larger amount of cash or stock being parted with than the state of the particular suitor's account would justify; and, secondly, as affording the most efficient means of maintaining accuracy in the Accountant-General's books.

We think that improvements may be introduced into the internal arrangement of the Accountant-General's Office which will provide means of maintaining accuracy at least as efficient as the elaborate machinery of duplicate accounts. It must be remembered that the duplicate system is no check upon the accuracy of the Accountant-General's proceedings so long as he does not attempt to dispose of more stock or cash than is remaining upon the particular account drawn upon. If a mistake be made in preparing a draft at the Accountant-General's Office, which does not involve the overdrawal of a particular account, the mistake must be repeated in the duplicate books at the Bank of England. No means exist there of detecting any draft that may have been stolen or that may have been improperly issued by the Accountant-General.

The Accountant-General also states that the duplicate account at the bank would be of the greatest possible importance in the event of any accident from fire happening to the Accountant-General's accounts. As to this point it may be useful to refer to the practice of the Bank of England. Before the year 1840 the Bank of England used to transmit to the Tower every week copies of their stock books, so that duplicates might be forthcoming in case the originals should be destroyed. In the year 1840 a fire occurred at the Tower. The attention of the authorities at the Bank was directed to the subject; they then came to the conclusion that it was unnecessary to keep duplicate books as a precaution against fire, and they have since relied on the simple expedient of keeping their ledgers in one part of their building, their journals or abstracts in a second, and the minutes or original tickets in a third. We think that a somewhat similar arrangement might properly be adopted in the Accountant-General's Office as a precaution in case of fire.

Section 3.—As regards the Relations between the Accountant-General's Office and the Report Office.

Since the abolition in 1852 of the account at the Report Office the duties performed in the Report Office in connexion with the office of the Accountant-General have consisted in filing the Accountant-General's certificates of payments of cash into Court, of sales, purchases, transfers, and acceptances of stock, and of carryings over of stock securities and cash.

The practice of issuing and filing these certificates originated at the time when all money brought into Court were deposited with the Masters. The Masters used to keep the suitors' moneys either in their own hands or at their private bankers', and their certificates filed in the Report Office were then the only records of sums received or paid by them.

The total number of certificates of recorded transactions filed during the year ending the 1st of October 1861 was 18,388. Of this number 3,800 were certificates of money having been paid into Court.

It appears on inquiry that of the whole number of certificates filed only 5,448 copies were taken.

We are of opinion:—

1. That the practice of filing certificates at the Report Office should be discontinued; and that certificates of transactions recorded in the Accountant-General's books should be obtained from the Accountant-General's Office.

We may add that we think that the provisions which we propose to make for furnishing to persons paying in money vouchers for the amounts paid in, and for subsequently transmitting to them formal certificates thereof, will considerably diminish the number of certificates that will be required.

Section 4.—As regards the Relations between the Accountant-General's Office and the Registrar's Office.

The following plan for simplifying and transmitting to the Accountant-General's Office the directions upon which the Accountant-General has to act, has been suggested by one of the members of the Commission:—

1. Every Order should as far as possible be complete in itself, that is, the amounts to be paid and the persons to whom the several amounts are to be paid should be specified in the Order, either in the body of it or in a schedule thereto, and not described by reference.

2. On drawing any Order on which the Accountant-General has to act, an abstract of it or "pay sheet" so far as it relates to the Accountant-General, should be prepared in the Registrar's Office in a tabular form.

3. The draft abstract initialed by the Registrar should be passed to the Accountant-General's Office to have entered on it the amount of the fund to be dealt with, and a statement whether the fund is subject to any previous Order or not, and for the Accountant-General to see if the directions of the abstract are sufficiently clear, but not to see if the abstract properly carries out the Order of the Court; the Registrar to be responsible for that.

4. The abstract when approved in the Accountant-General's Office to be so marked and returned to the Registrar, who is to sign the same and transmit it to the Accountant-General, to be kept by him, and to be his authority for the operations directed by the Order.

5. The Accountant-General to have nothing whatever to do with the Order, but only to be concerned with the abstract of it.

6. The abstract to have blank columns for the Accountant-General to enter amounts from certificates referred to in the abstract, as the Taxing Masters' certificates, &c., and to make entries when the several operations are completed, &c.

We approve of the principle of this plan, and we are therefore of opinion:—

1. That instead of being required to act upon the original Order, the Accountant-General should be furnished with and act upon pay sheets or abstracts in a tabular form prepared in the Registrar's Office, for the accuracy of which the Registrar should be responsible.

We recommend:—

2. That so long as the Accountant-General is required to act upon the original Order particular attention should be paid to the suggestions contained in the Accountant-General's Observations, Paper No. 9., par. 2, viz.:—

1st. Every Decree or Order directing the payment or transfer in, or carrying over of any funds should have inserted in the body thereof the exact title of the fund, as the same is to be raised in the Accountant-General's books, and not describe the fund by reference to the title of the Decree or Order.

2ndly. Every Decree or Order dealing with a fund in Court should have inserted in the body thereof the title of the fund from the Accountant-General's voluntary certificate, and not describe the same by reference to the title of the Order.

3rdly. In every Decree or Order dealing with a fund in Court containing the expressions "out of any other cash," and "out of any other Bank Annuities," the source from which the other funds are expected to come should be stated.

4thly. In every Decree or Order directing the computation of interest, the day up to which such interest is to be computed should be named.

3. That so long as the Accountant-General is required to act upon the original Order, Money Orders should have a distinguishing mark or stamp impressed upon them by the Assistant Clerk to the Registrar before being left for entry; that they should be entered in Registrar's books distinct from other Decrees and Orders, and should be consecutively numbered; and that each sheet when filled should be transmitted by the Entering Clerk to the Accountant-General's Office; and that the certificates of the Taxing Masters and of the Judges' Chief Clerks, upon which the Accountant-General has to act (after being filed in the Report Office, and after an office copy has been made for the solicitor), should also be transmitted to the Accountant-General's Office; and that the Clerk of Certificates, whose duties will cease on the discontinuance of filing the Accountant-General's certificates at the Report Office, should be accommodated with a Seat in the Accountant-General's Office, and that it should be his duty to make and keep an index to Money Orders, and to have the custody of the certificates of the Taxing Masters and Chief Clerks, and also of the sheets of the Registrar's books until the end of the year, when they should be transferred to the Clerk of Reports.

4. That in Decrees and Orders made in any Cause commenced since 1852, the reference to the Record described in I. Consol. Orders, 48, should be added to the title of the account to be raised.

We are also of opinion:—

5. That the practice of requiring the Registrar's directions for the sale, transfer, and delivery of stock and securities should be discontinued.

6. That the counter-signature of the Registrar to the Accountant-General's drafts should be dispensed with.

Section 5.—As regards the Internal Work of the Office, and the Establishment of a System of Audit.

We are of opinion:—

1. That directions to the Accountant-General in Money Orders or in the pay sheets or abstracts thereof (as the case may be) should in all cases be noted by the Accountant-General; and that the Accountant-General should operate thereon on receipt of the Money Order or pay sheet unless or until a request from one of the solicitors for any of the parties or the persons interested in the cause or matter to suspend any of such directions be left with the Accountant-General; and that directions to the Accountant-General contained in an earlier Order or pay sheet should not be superseded by directions of later date unless specially ordered.

2. That the practice now adopted in the Accountant-General's Office in preparing drafts drawn on the Bank of England should be amended; and that every signature and counter-signature upon a draft should be evidence of examination by the person who signs; and that no draft should be signed until it is applied for by the person entitled thereto; and that every draft should be passed to account as soon as it is drawn and issued.

3. That the Accountant-General should be relieved from the duty of signing drafts on the Bank, and authorized to grant deputations to officers of his department to sign drafts under regulations to be approved by the Lord Chancellor.

We beg to refer to the regulations established on this head in the largest pay department of the Government (Appendix, p. 99.)

We approve of the recommendations of the Incorporated Law Society as to the appointment of an officer with the necessary establishment to audit the suitors' accounts, with the view of providing proof of the accuracy of the accounts as between the suitors and the Accountant-General; and we are therefore of opinion:—

4. That a system of audit should be established in accordance with the principles defined in the Memorandum drawn up by Mr. Crawford and Mr. Anderson (Appendix, No. 37, page 146.)

Section 6.—As regards the Accountant-General's Salary and Allowances, the Accountant-General's Clerks, and as regards Office Hours and Vacations.

We recommend:—

1. That the salary of the office of Accountant-General should be fixed on a vacancy at the sum recommended by the Select Committee of the House of Commons on Official Salaries in 1850, viz., at 2,000*l.* a year.

2. That the allowance which the Accountant-General receives to enable him to defray office expenses should cease, and that the necessary office expenses should be defrayed out of the Suitors' Fee Fund in the same manner as similar expenses for other departments of the Court are defrayed.

3. That the Accountant-General should be at liberty to appoint a Deputy during Vacation, with the approbation of the Lord Chancellor, without remuneration; and in case of absence on account of illness at any other period of the year, to appoint a Deputy to be approved of by the Lord Chancellor for such time as his Lordship may sanction, and to be remunerated by the Accountant-General at such rate not exceeding one-third of his salary as the Lord Chancellor may determine.

4. That the Clerks should be divided into classes with minimum and maximum salaries and an annual progressive increase for length of service, according to the rule generally adopted in the public establishments; that the scale of salaries and annual increments should be settled by the Lord Chancellor with the approval of the Lords Commissioners of the Treasury, and that the Lord Chancellor should be empowered to direct instalments of salaries and pensions to be paid monthly.

5. That the Act 52 Geo. 3. c. 54. (Local and Personal) should be repealed, and that Section 46 of the Act of 15 & 16 Vict. c. 87., wherein are incorporated the provisions of the Act 22 Vict. c. 26., by which the superannuations of public civil servants are regulated, should be extended to the clerks in the Accountant-General's office.

6. That the Accountant-General's office should be open during Vacations on such days as the chambers of the Vacation Judge may be open, or on such days as the Lord Chancellor shall direct; that office hours during Vacation should be from 11 to 1; and office hours during each day the offices are open for the remainder of the year, from 10 to 4, except on Saturdays, when the office should be closed at 2; that the office should be open during Vacation on the three days next after the dividends of any Government Stock in Court become payable, from 10 to 2.

7. That the hours of attendance of all the clerks, except during Vacation, should be during office hours, and in times of pressure during such further period of each day as the Accountant-General may from time to time prescribe for the due despatch of the current business.

8. That during Vacations such number of clerks should attend as the Accountant-General may consider requisite for the due despatch of the current business.

We may mention that at present, in case any particular account is overdrawn, the Accountant-General has no fund available for the purpose of making good the loss. We recommend:—

9. That in the event of any account being overdrawn, the extent to which the account may be overdrawn, and the circumstances under which the error may have occurred, should be forthwith reported by the Accountant-General to the Lord Chancellor, who should be at liberty to direct that the amount overdrawn should be written off from the Suitors' Fee Fund; and in case such overdrawing should have occurred through the wilful neglect or default of any Officer of the Court, to direct that the amount so overdrawn should be made good by him or deducted from his salary.

Section 7.—As regards the Operations of Paying Money and Transferring Stock and Securities into Court.

We recommend:—

1. That the Accountant-General should, on a written request, without requiring the production of any order, issue his Directions for the payment of money, the transfer of stock, and the deposit of securities in any cause either to the credit of the cause generally or to a separate account which may have been directed to be opened in the cause.

2. That the reference to the Record should be inserted in the Directions issued by the Accountant-General, and added to the titles of causes in the Accountant-General's Books.

3. That Directions should be signed by such of the clerks as the Accountant-General may from time to time appoint for the purpose, and should be ready during Vacations on

the same day they are bespoken, and at other times by 11 o'clock on the morning following.

4. That the person applying for the Direction should write upon it the address to which he desires a formal voucher or certificate to be sent when the amount shall have been placed to the account mentioned in the Direction.

5. That at the foot of the Direction to pay in money or deposit securities there should be a form of receipt to be signed by the cashier of the Bank, and to be given to and retained by the person paying in.

6. That the Accountant-General should, on the next day but one that the office is open after the amount is paid in to the Bank, transmit by the General Post to the address written on the Direction, a voucher or certificate of the money having been placed to the proper account in his books.

7. That a purchaser paying into Court the purchase money of an estate sold under an order of the Court, should be entitled to require that the purchase money should not be dealt with without notice to him by signing a request to that effect upon the Direction.

8. That each amount paid in under the 69th Section of the Lands Clauses Consolidation Act, 1845, should be distinguished in the Accountant-General's ledgers by a distinct number; and that a certificate of each sum paid in under the 69th Section should be issued when required; and that every order dealing with a sum paid in under that Section should refer to the sum by the number attached thereto in the Accountant-General's ledgers.

9. That money should be received from and paid to suitors at any branch of the Bank of England.

We are also of opinion:—

10. That arrangements should be made with the Bank of England with a view to dispense with the attendance of the Accountant-General at the Bank for the purpose of accepting and transferring stock.

Section 8.—As regards Securities other than Government Securities deposited in Court.

We recommend that Foreign and other securities ordered to be brought into Court should be deposited in the same manner as Exchequer Bills; and that the interest or dividends on such securities should be received by one of the cashiers of the Bank.

Section 9.—As regards the Operation of Transferring Stock and Paying Money out of Court.

We recommend that the following suggestions be adopted:—

1. That powers of attorney for the receipt of moneys and securities in the custody of the Court should be dispensed with, and that in lieu thereof there should be substituted an authority to the effect contained in the Form No. 23 in the Schedule to the General Orders of 11th November 1862, made under the Companies' Act, 1862 (vide App. No. 38, page 148).

2. That affidavits of residue and affidavits verifying calculations should be dispensed with, and that all calculations and apportionments (in the absence of a special direction to the contrary) should be made by the Accountant-General's clerks.

3. That statutory declarations should be substituted for affidavits verifying facts.

4. That payment of any moneys to the Receiver General of Inland Revenue, the Official Trustees of Charitable Funds, the Ecclesiastical Commissioners, the Assistant Paymaster General, and the Solicitor to the Treasury, or any other official person for whom an account is kept at the Bank of England, should be made by the Accountant-General transmitting to the Bank a direction to write off the amount from his account to the account to which the money is to be placed.

5. That when the amount payable to any person does not exceed the amount transmissible by Post Office Orders, the person to whom the money is payable should be at liberty to authorize the transmission thereof by a Post Office Order; and that a list of the Post Office Orders to be issued should be transmitted daily to the Postmaster-General with a direction from the Accountant-General for the Bank to write off the total amount from his account to the account of the Postmaster-General, who should deduct from each amount authorized to be transmitted his charges for transmitting the same, as well as the postage.

Section 10.—As regards Transcripts of Accounts and Certificates.

We recommend that the following suggestions be adopted:—

1. That Transcripts should be ready for delivery to the solicitors at the expiration of 36 hours after they have been bespoken or left to be made up.

2. That the entries in Transcripts should show the price at which stock and securities entered therein were bought or sold, and the date of the order and certificate (if any) under which any transfer or payment of money or any carrying over therein mentioned was made.

3. That during the month of November in each year Transcripts of all accounts dealt with during the year should be left at the Accountant-General's Office to be made up.

4. That on bespeaking or making up a Transcript, a fee of 6s. 8d., if the entries exceed three and do not exceed six, or of 13s. 4d. if the entries exceed six, should be allowed to the solicitor.

5. That Transcripts should be signed by one of the Accountant-General's clerks.

6. That Transcripts so signed should be evidence of the contents of the Accountant-General's Books.

7. That certificates should be signed by such of the Accountant-General's clerks as he may depute for the purpose, and should be ready during Vacations on the same day that they are bespoken, and at other times by 11 o'clock on the following morning.

CHAP. II.—AS REGARDS THE FUNDS OF THE COURT OF CHANCERY.

Section 1.—As regards the propriety of making any Alteration in the present Mode of Buying and Selling Stock for the Suitors.

Appendix,
Nos. 16 and
17, pp. 87-
100.

In the two Reports of the members of the Sub-committee who were appointed by the Commission to investigate this branch of our inquiry, and which are printed in the Appendix to this Report, the arguments in favour of a change in the practice of purchasing and selling stock on account of Suitors, and those advanced in opposition to the proposed change in the existing regulations are fully set forth.

On the one side the question was argued as a measure of improved management, which would be productive of despatch and of some economy, although it might be difficult to measure accurately the jobbers' profits and the proportion of the Chancery Broker's commission which might be saved. The stock belonging to suitors stands to the credit of the Accountant-General upon one account in the stock books opened at the Bank of England for each description of stock. Taking, therefore, a transaction in its most simple form, a purchase of a given amount of consols, and a sale of equal amount of the same stock, it was argued that such a transaction might be settled by a transfer in the books of the Accountant-General without resorting to the stock market to make purchases and sales, and making useless entries in the stock books of the Bank of England on both sides of the Accountant-General's stock accounts; and even when the purchases and sales on the same day were not of equal amounts, it was argued that the purchase or sale of the balance might regulate the book entries for the full amounts. But, on the other hand, it was shown that the purchases and sales were never of equal amounts, and that they were sometimes effected at different prices on the same day, and that practical difficulties would arise in recording the countervailing debits and credits to the suitors' separate accounts in the Accountant-General's ledgers. To obviate this difficulty, it was suggested that the stock accounts of the Court (Fund A.) and the cash in the Bank might be employed as intermediate accounts, and that the transactions should be regulated by the certified average prices of the stocks for each day. The object of the recommendation in favour of change was to reduce to a minimum the transactions in the stock market, and to obtain the maximum of security by confining, as far as practicable, these large pecuniary transactions within the more immediate control of the officers of the Court. It was further argued, in opposition to the proposed change, that the present system has the merit of simplicity and absolute freedom from any specific imputation of irregularity on the part of those by whom it is carried on, and that the public would view with suspicion the substitution of a system of transfers.

We do not think it necessary to discuss this question further here, because the establishment of a Deposit Account for suitors' moneys, which forms the subject of the next section of this Report, may be expected to affect so sensibly the amount of separate investments and sales on Suitors' account, that it is expedient to defer the further consideration of this question until the proposal to which we have referred shall have been fully carried into effect.

We are, therefore, of opinion :—

1. That it is expedient to defer the further consideration of the question as to the propriety of making any alteration in the mode of buying and selling stock for the Suitors until after the establishment of a Deposit Account for the Suitors of the Court of Chancery.

Section 2.—As regards the establishment of a Deposit Account.

[NOTE.—Mr. Crawford dissents from the views expressed in this Section, for the reasons contained in his observations subjoined to this Report.]

We pass now to the more important question of allowing the suitors, who may not desire to have their moneys invested in the public stocks, to place them on deposit, pending litigation, with security for the return of their capital in full, and with a share of the interest derived therefrom during the period of deposit.

We have already explained, in Chapters 2 and 3 of the Second Part of this Report, that the suitors derive at present no income whatever from their cash deposited in Court and not invested at their risk; that a large portion of such suitors' cash is invested by the Court in the Government funds, not for the special benefit of those to whom the principal belongs, but for the purpose of providing a fund for the payment of the general expenses of the Court.

Moneys are usually paid into Court by persons who are not beneficially interested in the subsequent distribution of them, and whose object in so doing is to obtain a legal release from their responsibility. If moneys are paid into Court in a suit, and an investment of such moneys be not demanded by the suitor, they remain as cash on the suitor's account, and are unproductive of income to the persons who may establish their title to them. The persons to whom they may be ultimately adjudged may reasonably feel aggrieved that they are not permitted to share in the income which has been derived from the investment of the general cash of the Court, of which their deposits form part.

We fully concur in the opinion expressed on this subject by Lord St. Leonards (in his evidence of the 13th June 1850, before the Select Committee of the House of Commons on Official Salaries). In answer to a question as to the payment of the Officers of the Court of Chancery out of the Fee Fund, his Lordship (then Sir Edward Sugden) stated,—

"There is another thing with respect to the Fee Fund which I have always thought wrong. They affect to say that there is nothing lost to the suitor by many of those payments, because they take the surplus money not employed. Suppose, for instance, that there is a floating capital of half a million of money, they will take 300,000*l.* of that and invest it, and make it productive of interest. Now a man's money, when it is paid into the Court of Chancery, is not invested without his own application; if he does not choose to have it invested it is not invested; they say therefore that the money so made is a sort of derelict, because he would not have made it, but the Court makes it, and that therefore it is to go to public purposes. I have always thought that wrong. Suppose that I am a suitor, and that 5,000*l.* of my money is paid into Court, it may not at all suit me, as an individual, that that money should be invested in the three per cents., and that I should by and by be found a loser; and I do not want to be a gainer; I want my exact money. Then, because the party did not apply to have that money invested, they say he is not entitled to have any interest upon it; but I say that you are holding that vast balance of all the suitors, and that when you can take 300,000*l.* out of every half million, and make it productive, producing three per cent., that three per cent. ought to be paid to the suitors according to their rights in the fund; and that, therefore, even those who did not apply to have their money laid out, ought to have, say, two per cent., or some moderate sum, allowed them for their money which is not actually invested. I have always thought that a real grievance, that a man's money is lying perhaps three, four, or five years while the dispute is going on, and he does not know at what moment to have it invested; and in point of fact, interest is being made from his money, and yet, by that sort of reasoning, he is never allowed to have a shilling of it."

Bearing in mind Your Majesty's command that we should suggest improvements "with especial view to the advantage of the suitors," we recommend that this grievance be remedied, and that the suitors be permitted to share in the income which is derived from the investment of their moneys by the Court. As this concession will lead to a large increase in the amount of cash deposits in Court, and to a corresponding diminution of special investments on behalf of individual suitors, it is necessary to consider the probable effect of the measure with reference to the capital of the cash on deposit, and its liabilities, and with reference also to the income to be derived from the fund, and the charges payable therefrom.

1st, as to the Capital of the "Cash on Deposit:"—

The practice uniformly authorized by Parliament since the first investment of suitors' cash for the benefit of the funds of the Court, in 1739 (by the Act 12 Geo. 2. cap. 24.), has been the investment of the same in Government securities on Fund A. From 1739 to 1838, ten separate Acts have been passed authorizing specific investments; but in the latter year a permanent discretionary power was conferred on the Lord Chancellor

by the Act 1 & 2 Vict. cap. 54. The interest derived from such investments has been appropriated, by the authority of Parliament, partly to the payment of salaries and other expenses of the Court, and the surplus interest has been accumulated to form a security fund (Fund B.) for meeting any possible deficiency in the sum required for the repayment of the suitors' capital; this accumulation ceased in 1852, when an Act was passed (15 & 16 Vict. c. 87.) which directed that the future surplus interest should be carried to the Suitors' Fee Fund, and thus enabled the Court to reduce the fees levied on the general body of suitors.

From this brief description it will be seen that for a period of 124 years (1739 to 1862) the suitors' cash, not required by them to be invested for their own benefit, has been invested in the public stocks at the risk and for the benefit of the Court; that such investments have been made under the authority of Parliament, and that they have been recognized by the Legislature as providing adequate security, with the Surplus Interest Fund before referred to (Fund B.), for the repayment of the suitors' cash deposits in full.

It may be useful to test the sufficiency of the security provided by Parliament in 1739 and subsequent years, by instituting a comparison between the amount of the present assets of the Fund, independently of the Fund accumulated out of the Surplus Interest, and the amount of the cash claims to which it is liable.

The liabilities payable in cash, as they existed on the 1st October 1863, amounted to 2,799,608*l*.

The assets of the Court directly available to meet the said liabilities were as follow:—

	£
1st. Cash at the Bank of England - - - -	334,864
2nd. Cash value of 1,416,542 <i>l</i> . consols, at 93 $\frac{1}{4}$ - -	1,320,925
„ 1,404,160 <i>l</i> . reduced at 91 $\frac{7}{8}$ - -	1,290,072
	£2,945,861

being a surplus of 146,253*l*. after paying every claim in full, and leaving the Surplus Interest Fund of 1,291,629*l*. stock, upon which any deficiency would be chargeable, untouched.

The experience of the past working of the principle laid down by Parliament in the original Act of 1739 fully justifies the conviction we entertain that the funds of the Court will not be exposed to any increased risk in consequence of the increase of the amount of cash deposits which may be expected to arise from the measure we have recommended, and that the invested amount of Fund A. will continue sufficient to meet all claims upon it.

2nd, as to the Income:—

The whole amount of interest which will become payable to suitors on their cash deposits will be an additional charge upon the funds of the Court. We recommend that the rate of interest should be two per cent. per annum; this is the rate mentioned in Lord St. Leonards' evidence, and the rate recommended by the Law Societies. Assuming the estimates of the Law Societies (App. Nos. 21 and 22) to be correct, we are of opinion that although there might and probably would be a loss to the revenues of the Court for the first year or two after the establishment of the Deposit Account, yet that the growth of cash deposits would secure the income of the Court from the danger of deficiency in future years. We recommend that the loss which may arise on the first introduction of the new arrangement should be chargeable upon the balance of cash to the credit of the Suitors' Fee Fund Account not properly belonging to the annual income thereof, which amounted to about 100,000*l*. on the 24th of November 1863 [Part II. Chap. 8]. We are of opinion that this sum will be more than sufficient for the purpose.

Although we see no reason to apprehend that the establishment of the proposed Deposit Account will entail any permanent loss upon the revenues of the Court, it may not be out of place to point out that in 1862 the income of the Suitors' Fee Fund exceeded the expenditure by 5,000*l*. In 1863 the surplus of income over expenditure was reduced to 356*l*. 16*s*. 3*d*., owing solely to the effect of the Lunacy Regulation Act, 1862. If, however, our recommendation as to the re-adjustment of the expenses connected with the administration of lunatics' estates be adopted, the Income and Expenditure Account of the Court of Chancery will again show a large surplus, without reckoning the dividends on the additional stock on Fund A., purchased in 1863. And it must also be remembered that the charges upon the Suitors' Fee Fund will diminish every

year by the falling in of annual compensations in respect of abolished offices, which exceeded 56,000*l.* for the year comprised in the last Return.

We are, therefore, of opinion :—

1. That it is expedient to establish a Deposit Account for suitors' moneys in the Court of Chancery, and to allow to the suitors interest at the rate of 2*l.* per cent. per annum upon the moneys belonging to them whilst in the custody of the Court; but without depriving them of the right to require the investment thereof at any time on their own behalf and at their own risk.

We abstain from making specific recommendations on the subject of the detailed arrangements which may be necessary for carrying into practical operation the measure which we have submitted for the benefit of the class of suitors referred to in this section of our Report. This is a duty which properly belongs to the executive Officers of the Court, and it is moreover one which they are best qualified to perform. There are, however, some practical suggestions in the Report of the Sub-committee (Appendix, No. 16), to which we think it right to refer as proper to be considered by those to whom the execution of the measure may be intrusted.

Section 3.—As regards the Management of the Funds of the Court.

We are of opinion :—

1. That measures ought to be taken at once for the purpose of relieving the Chancery suitors from the great burden which has lately been thrown upon them by the increased expenses connected with the administration of lunatics' estates.

2. That it would be expedient in order that the whole income and expenditure of the Court of Chancery may be presented in an intelligible form, that the balances of cash which have arisen from the income of Funds A. and B., and the cash and stock on Fund D., and on "the money arising by sale of the Six Clerks' Offices," should be carried over to Fund C., and that the accruing income of Funds A. and B. should be paid in and placed to the credit of Fund C., and that the whole expenditure of the Court now charged upon the incomes of Fund A. and Fund B., and upon Fund C., should be charged upon this amalgamated account, which might be termed the Chancery Income and Expenditure Account.

3. That the Appeal Deposit Account should be amalgamated with the Chancery Income and Expenditure Account, and that Appeal Deposits instead of being lodged with the Senior Registrar should be paid into the Bank, and placed to the credit of that Account, and that the repayments of Appeal Deposits should be made thereout.

4. That the whole amount of brokerage chargeable to suitors should be carried over and placed to the credit of the Chancery Income and Expenditure Account, and that the broker's remuneration should be paid thereout.

5. That the Chancery Income and Expenditure Account should be annually balanced on the 1st of October (the day of annually balancing the Suitors' accounts).

6. That the Income Tax on the salaries, pensions, and compensations charged upon the Amalgamated Account, and on any other moneys payable thereout liable to Income Tax, should be deducted by the Accountant-General, and paid over by him to the Commissioners of Inland Revenue, less the amount of Income Tax deducted by the Bank on the dividends of stock payable to the Amalgamated Account.

7. That the custody of Parliamentary Deposits under 9 & 10 Vict. c. 20. should be transferred from the Accountant-General's Department to the Board of Trade or some other public office.

8. That the provisions contained in the 16 & 17 Vict. c. 98. authorizing investigations to be made into suitors' unclaimed accounts, should be varied, and that such investigations should be made on the 1st of October in every year, and should be extended to all accounts not dealt with for 10 years instead of being limited to stock accounts, and should also be extended to accounts where the only dealing has been the investment of dividends.

9. That at the time of annually balancing the suitors' accounts, there should be transferred to a separate Ledger and carried to the Chancery Income and Expenditure Account balances not exceeding 2*l.* on any accounts, and also balances exceeding 2*l.* and not exceeding 5*l.* on any accounts not dealt with during the preceding year, and that any amount so carried over, with any dividends accrued thereon that may be reclaimed should be made good out of the same Account.

10. That the annual Balance Book should be continued to be made up, and after being signed by the Chief Clerk of the Accountant-General should be deposited on or before the 1st of November in each year in the Record Office at the Rolls.

11. That purchases and sales of stock on Fund A. should be so regulated in amount as to affect the market as little as possible.

12. That all fees payable into the Suitors' Fee Fund Account should be collected by stamps.

(Signed)	ARGYLL.	(L.S.)
	KINGSDOWN.	(L.S.)
	Subject to the qualification expressed in the subjoined Memorandum marked with my initial.*	
	W. P. WOOD.	(L.S.)
	† R. W. CRAWFORD.	(L.S.)
	P. W. ROGERS.	(L.S.)
	G. W. ANDERSON.	(L.S.)
	W. STRICKLAND COOKSON.	(L.S.)
	EDWIN W. FIELD.	(L.S.)

Dated the 17th of February 1864,

E. MACNAGHTEN, *Secretary.*

* I agree in the Report except so far as it proposes "to establish a system of audit in place of the check hitherto afforded by the duplicate causewise accounts kept at the Bank."—[Memorandum, No. XXXVII, App. 146.]

From that proposition I dissent for the following reasons:—

The present system has been tried for a long series of years in keeping accounts in vast numbers and of great complication and magnitude, and has been found practically efficient, and I am not satisfied that the system now proposed would afford greater or even equal security.

It is contemplated by this plan "that the office of auditor should be held by a person of legal acquirements, assisted by a staff of competent accountants." I have a strong objection to the introduction of a new set of salaried officers into the Court unless in a case of absolute necessity.

I think the establishment of a branch office of the Bank of England in the immediate neighbourhood of the Accountant-General's office will be a very great convenience to the Suitors in Chancery; but I cannot see any sufficient reason why the change proposed in the mode of keeping and checking accounts is essential to the attainment of that object.

K.

† *Dissenting from so much of the Report as relates to the proposed establishment of a Deposit Account.*

Mr. CRAWFORD'S REASONS for dissenting from so much of the foregoing REPORT as relates to the ESTABLISHMENT of a DEPOSIT ACCOUNT.

I have stated fully in my Papers bearing date the 8th January and 7th July 1862, printed on pages 100–104 of the Appendix to this Report, the reasons why I did not feel myself at liberty to concur in the proposals of my colleagues on the Sub-Committee, for the establishment of the "Deposit Account" now recommended by the Commission.

Having carefully reconsidered the whole question by the light of the amended form in which the "Deposit Account" is now recommended, and the illustration of its supposed working furnished in the Report, I am still unable to incur the responsibility of advising its adoption.

I assume that the Account ought to be self-supporting; that is to say, that the moneys of the suitors, constituting its capital, should be secured by investment in Parliamentary

Stocks, yielding an annual income sufficient to provide for the allowance therefrom of two per cent. proposed to be made to the suitors, without reasonable probability of waste of capital taking place through the occurrence of sales at inopportune periods, or otherwise.

These ends, it appears to me, cannot be attained unless the integrity of the capital of the Fund be guaranteed by Parliament either accepting a special responsibility on that behalf, or specifically appropriating, or declaring a special lien upon, other funds now under the control of the Court.

To the former of these two courses I have stated some objections in the papers I have before referred to. With regard to the latter, I would wish to observe, in the first place, that I have heard no reason assigned why that class of suitors, whose interests the proposed "Deposit Account" is intended particularly to serve, should enjoy a special and peculiar privilege at the expense of the suitors at large, who are now benefited by the progressive reduction of fees consequent on the augmentation of the Suitors' Fee Fund; and, in the second place, that I am very unwilling to pledge myself to any proposition which will interfere with the attainment of the very important objects intended to be accomplished by the concentration of the Courts of Justice.

For these reasons, I am unable to concur in so much of this Report as recommends the establishment of the "Deposit Account."

R. W. CRAWFORD.

SUMMARY OF RECOMMENDATIONS CONTAINED IN THE REPORT.

AS REGARDS THE ACCOUNTANT-GENERAL'S OFFICE AND THE FORMS OF BUSINESS
IN USE THEREIN.

As regards the Financial Department of the Court of Chancery generally, and the constitution thereof.

1. That the Act of 12 Geo. 1. c. 32. should be repealed, and that the Accountant-General's Office should be re-constructed under General Orders to be issued by the Lord Chancellor.

2. That a Standing Committee consisting of certain officers of the Court of Chancery should be appointed by the Lord Chancellor, whose duty it should be to consider any suggestions that may be made for improving the mode of transacting the business of the Office, and to report to the Lord Chancellor, at least once a year, whether any and what alterations should be made in the General Orders regulating the Department.

As regards the Relations between the Accountant-General's Department and the Bank of England.

1. That the regulation which prevents the Accountant-General from intermeddling with the suitors' moneys and effects should be preserved intact; and that the actual receipt, payment, and delivery of the moneys and securities belonging to the suitors should, as heretofore, be managed by the Bank of England; but that the system of duplicate accounts should be discontinued, and that the Bank should keep the Accountant-General's account in the same manner as it keeps the accounts of its other customers.

2. That means ought to be provided for receiving money and cashing the Accountant-General's drafts, either under the same roof as the Accountant-General's Office, or in its immediate vicinity.

3. That the Bank should be remunerated for the work which it performs for the Chancery suitors by a fixed annual payment, to be from time to time settled by the Lord Chancellor and the Governor of the Bank, with the approbation of the Lords Commissioners of Her Majesty's Treasury.

As regards the Relations between the Accountant-General's Office and the Report Office.

1. That the practice of filing certificates at the Report Office should be discontinued; and that certificates of transactions recorded in the Accountant-General's books should be obtained from the Accountant-General's Office.

As regards the Relations between the Accountant-General's Office and the Registrar's Office.

1. That instead of being required to act upon the original Order the Accountant-General should be furnished with and act upon Pay Sheets or Abstracts in a tabular form prepared in the Registrar's Office, for the accuracy of which the Registrar should be responsible.

2. That so long as the Accountant-General is required to act upon the original Order particular attention should be paid to the suggestions contained in the Accountant-General's Observations, Paper No. 9, par. 2, viz.:

1st. Every Decree or Order directing the payment or transfer in, or carrying over of any funds should have inserted in the body thereof the exact title of the fund, as the same is to be raised in the Accountant-General's books, and not describe the fund by reference to the title of the Decree or Order.

2ndly. Every Decree or Order dealing with a fund in Court should have inserted in the body thereof the title of the fund from the Accountant-General's voluntary certificate, and not describe the same by reference to the title of the Order.

3rdly. In every Decree or Order dealing with a fund in Court containing the expressions "out of any other cash," and "out of any other Bank Annuities," the source from which the other funds are expected to come should be stated.

4thly. In every Decree or Order directing the computation of interest, the day up to which such interest is to be computed should be named.

3. That so long as the Accountant-General is required to act upon the original Order, Money Orders should have a distinguishing mark or stamp impressed upon them by the

Assistant Clerk to the Registrar before being left for entry; that they should be entered in Registrar's books distinct from other Decrees and Orders, and should be consecutively numbered, and that each sheet when filled should be transmitted by the Entering Clerk to the Accountant-General's Office; and that the certificates of the Taxing Masters and of the Judges' Chief Clerks, upon which the Accountant-General has to act (after being filed in the Report Office, and after an office copy has been made for the solicitor), should also be transmitted to the Accountant-General's Office; and that the Clerk of Certificates, whose duties will cease on the discontinuance of filing the Accountant-General's certificates at the Report Office, should be accommodated with a Seat in the Accountant-General's Office, and that it should be his duty to make and keep an index to Money Orders, and to have the custody of the certificates of the Taxing Masters and Chief Clerks, and also of the sheets of the Registrar's books until the end of the year, when they should be transferred to the Clerk of Reports.

4. That in Decrees and Orders made in any Cause commenced since 1852, the reference to the Record described in I. Consol. Orders, 48, should be added to the title of the account to be raised.

5. That the practice of requiring the Registrar's directions for the sale, transfer, and delivery of stock and securities should be discontinued.

6. That the counter-signature of the Registrar to the Accountant-General's drafts should be dispensed with.

As regards the Internal Work of the Office, and the establishment of a System of Audit.

1. That directions to the Accountant-General in Money Orders or in the pay sheets or abstracts thereof (as the case may be) should in all cases be noted by the Accountant-General; and that the Accountant-General should operate thereon on receipt of the Money Order or pay sheet unless or until a request from one of the solicitors for any of the parties or the persons interested in the cause or matter to suspend any of such directions be left with the Accountant-General; and that directions to the Accountant-General contained in an earlier Order or pay sheet should not be superseded by directions of later date unless specially ordered.

2. That the practice now adopted in the Accountant-General's Office in preparing drafts drawn on the Bank of England should be amended; and that every signature and counter-signature upon a draft should be evidence of examination by the person who signs; and that no draft should be signed until it is applied for by the person entitled thereto; and that every draft should be passed to account as soon as it is drawn and issued.

3. That the Accountant-General should be relieved from the duty of signing drafts on the Bank, and authorized to grant deputations to officers of his department to sign drafts under regulations to be approved by the Lord Chancellor.

4. That a system of audit should be established in accordance with the principles defined in the Memorandum drawn up by Mr. Crawford and Mr. Anderson. Appendix No. 37.

As regards the Accountant-General's Salary and Allowances, the Accountant-General's Clerks, and as regards Office Hours and Vacations.

1. That the salary of the office of Accountant-General should be fixed on a vacancy at the sum recommended by the Select Committee of the House of Commons on official salaries in 1850, viz., at 2,000*l.* a year.

2. That the allowance which the Accountant-General receives to enable him to defray office expenses should cease, and that the necessary office expenses should be defrayed out of the Suitors' Fee Fund in the same manner as similar expenses for other departments of the Court are defrayed.

3. That the Accountant-General should be at liberty to appoint a Deputy during Vacation, with the approbation of the Lord Chancellor, without remuneration; and in case of absence on account of illness at any other period of the year, to appoint a Deputy to be approved of by the Lord Chancellor for such time as his Lordship may sanction, and to be remunerated by the Accountant-General at such rate, not exceeding one third of his salary, as the Lord Chancellor may determine.

4. That the clerks should be divided into classes with minimum and maximum salaries and an annual progressive increase for length of service, according to the rule generally adopted in the public establishments; that the scale of salaries and annual increments should be settled by the Lord Chancellor with the approval of the Lords Commissioners of the Treasury; and that the Lord Chancellor should be empowered to direct instalments of salaries and pensions to be paid monthly.

5. That the Act 52 Geo. 3. c. 54. (Local and Personal) should be repealed, and that Section 46 of the Act of 15 & 16 Vict. c. 87., wherein are incorporated the provisions of the Act 22 Vict. c. 26., by which the superannuations of public civil servants are regulated, should be extended to the clerks in the Accountant-General's office.

6. That the Accountant-General's office should be open during vacations on such days as the chambers of the Vacation Judge may be open, or on such days as the Lord Chancellor shall direct; that office hours during vacation should be from 11 to 1; and office hours during each day the offices are open for the remainder of the year, from 10 to 4, except on Saturdays, when the office should be closed at 2; that the office should be open during Vacation on the three days next after the dividends of any Government Stock in Court become payable, from 10 to 2.

7. That the hours of attendance of all the clerks, except during vacation, should be during office hours, and in times of pressure during such further period of each day as the Accountant-General may from time to time prescribe for the due despatch of the current business.

8. That during vacations such number of clerks should attend as the Accountant-General may consider requisite for the due despatch of the current business.

9. That, in the event of any account being overdrawn, the extent to which the account may be overdrawn, and the circumstances under which the error may have occurred should be forthwith reported by the Accountant-General to the Lord Chancellor, who should be at liberty to direct that the amount overdrawn should be written off from the Suitors' Fee Fund; and in case such overdrawn should have occurred through the wilful neglect or default of any Officer of the Court, to direct that the amount so overdrawn should be made good by him or deducted from his salary.

As regards the Operations of paying Money and transferring Stock and Securities into Court.

1. That the Accountant-General should, on a written request, without requiring the production of any order, issue his Directions for the payment of money, the transfer of stock, and the deposit of securities in any cause either to the credit of the cause generally or to a separate account which may have been directed to be opened in the cause.

2. That the reference to the Record should be inserted in the Directions issued by the Accountant-General, and added to the titles of causes in the Accountant-General's books.

3. That Directions should be signed by such of the clerks as the Accountant-General may from time to time appoint for the purpose, and should be ready during Vacations on the same day they are bespoken, and at other times by 11 o'clock on the morning following.

4. That the person applying for the Direction should write upon it the address to which he desires a formal voucher or certificate to be sent when the amount shall have been placed to the account mentioned in the Direction.

5. That at the foot of the Direction to pay in money or deposit securities there should be a form of receipt to be signed by the cashier of the Bank, and to be given to and retained by the person paying in.

6. That the Accountant-General should, on the next day but one that the office is open after the amount is paid in to the Bank, transmit by the General Post to the address written on the Direction, a voucher or certificate of the money having been placed to the proper account in his books.

7. That a purchaser paying into Court the purchase money of an estate sold under an order of the Court, should be entitled to require that the purchase money should not be dealt with without notice to him by signing a request to that effect upon the Direction.

8. That each amount paid in under the 69th Section of the Lands Clauses Consolidation Act, 1845, should be distinguished in the Accountant-General's ledgers by a distinct number, and that a separate certificate of each sum paid in under the 69th Section should be issued when required, and that every order dealing with a sum paid in under that Section should refer to the sum by the number attached thereto in the Accountant-General's ledgers.

9. That money should be received from and paid to Suitors at any branch of the Bank of England.

10. That arrangements should be made with the Bank of England with a view to dispense with the attendance of the Accountant-General at the Bank for the purpose of accepting and transferring stock.

As regards Securities other than Government Securities deposited in Court.

1. That Foreign and other securities ordered to be brought into Court should be deposited in the same manner as Exchequer Bills; and that the interest or dividends on such securities should be received by one of the cashiers of the Bank.

As regards the Operations of Transferring Stock and paying Money out of Court.

1. That powers of attorney for the receipt of moneys and securities in the custody of the Court should be dispensed with, and that in lieu thereof there should be substituted an authority to the effect contained in the Form No. 23 in the Schedule to the General Orders of 11th November 1862, made under the Companies Act, 1862.

2. That affidavits of residue and affidavits verifying calculations should be dispensed with, and that all calculations and apportionments (in the absence of a special direction to the contrary) should be made by the Accountant-General's clerks.

3. That statutory declarations should be substituted for Affidavits verifying facts.

4. That payment of any moneys to the Receiver General of Inland Revenue, the Official Trustees of Charitable Funds, the Ecclesiastical Commissioners, the Assistant Paymaster General, and the Solicitor to the Treasury, or any other official person for whom an account is kept at the Bank of England, should be made by the Accountant-General transmitting to the Bank a direction to write off the amount from his account to the account to which the money is to be placed.

5. That when the amount payable to any person does not exceed the amount transmissible by Post Office Orders, the person to whom the money is payable should be at liberty to authorize the transmission thereof by a Post Office Order; and that a list of the Post Office Orders to be issued should be transmitted daily to the Postmaster-General with a direction from the Accountant-General for the Bank to write off the total amount from his account to the account of the Postmaster-General, who should deduct from each amount authorized to be transmitted his charges for transmitting the same, as well as the postage.

As regards Transcripts of Accounts and Certificates.

1. That Transcripts should be ready for delivery to the solicitors at the expiration of 36 hours after they have been bespoken or left to be made up.

2. That the entries in Transcripts should show the price at which stock and securities entered therein were bought or sold, and the date of the order and certificate (if any) under which any transfer or payment of money or any carrying over therein mentioned was made.

3. That during the month of November in each year Transcripts of all accounts dealt with during the year should be left at the Accountant-General's Office to be made up.

4. That on bespeaking or making up a Transcript, a fee of 6s. 8d., if the entries exceed three and do not exceed six, or of 13s. 4d. if the entries exceed six, should be allowed to the solicitor.

5. That Transcripts should be signed by one of the Accountant-General's clerks.

6. That Transcripts so signed should be evidence of the contents of the Accountant-General's Books.

7. That certificates should be signed by such of the Accountant-General's clerks as he may depute for the purpose, and should be ready during Vacations on the same day that they are bespoken, and at other times by 11 o'clock on the following morning.

AS REGARDS THE FUNDS OF THE COURT OF CHANCERY.

As regards the Propriety of Making any Alteration in the present Mode of buying and selling Stock for the Suitors.

1. That it is expedient to defer the further consideration of the question as to the propriety of making any alteration in the mode of buying and selling stock for the Suitors until after the establishment of a Deposit Account for the Suitors of the Court of Chancery.

As regards the Establishment of a Deposit Account.

1. That it is expedient to establish a Deposit Account for Suitors' moneys in the Court of Chancery, and to allow to the Suitors interest at the rate of 2l. per cent. per annum

upon the moneys belonging to them whilst in the custody of the Court; but without depriving them of the right to require the investment thereof at any time on their own behalf, and at their own risk.

As regards the Management of the Funds of the Court.

1. That measures ought to be taken at once for the purpose of relieving the Chancery Suitors from the great burden which has lately been thrown upon them by the increased expenses connected with the administration of lunatics' estates.

2. That in order that the whole income and expenditure of the Court of Chancery may be presented in an intelligible form, the balances of cash which have arisen from the income of Funds A. and B., and the cash and stock on Fund D., and on "the money" arising by sale of the Six Clerks' Offices," should be carried over to Fund C., and that the accruing income of Funds A. and B., should be paid in and placed to the credit of Fund C., and that the whole expenditure of the Court now charged upon the incomes of Fund A. and Fund B., and upon Fund C., should be charged upon this amalgamated account, which might be termed the Chancery Income and Expenditure Account.

3. That the Appeal Deposit Account should be amalgamated with the Chancery Income and Expenditure Account, and that Appeal Deposits instead of being lodged with the Senior Registrar should be paid into the Bank, and placed to the credit of that Account, and that the repayments of Appeal Deposits should be made thereout.

4. That the whole amount of brokerage chargeable to suitors should be carried over and placed to the credit of the Chancery Income and Expenditure Account, and that the broker's remuneration should be paid thereout.

5. That the Chancery Income and Expenditure Account should be annually balanced on the 1st of October (the day of annually balancing the Suitors' accounts).

6. That the Income Tax on the salaries, pensions, and compensations charged upon the Amalgamated Account, and on any other moneys payable thereout liable to Income Tax, should be deducted by the Accountant-General, and paid over by him to the Commissioners of Inland Revenue, less the amount of Income Tax deducted by the Bank on the dividends of stock payable to the Amalgamated Account.

7. That the custody of Parliamentary Deposits under 9 & 10 Vict. c. 20., should be transferred from the Accountant-General's Department to the Board of Trade or some other public office.

8. That the provisions contained in the 16 & 17 Vict. c. 98. authorizing investigations to be made into Suitors' unclaimed accounts, should be varied, and that such investigations should be made on the 1st of October in every year, and should be extended to all accounts not dealt with for 10 years instead of being limited to stock accounts, and should also be extended to accounts where the only dealing has been the investment of dividends.

9. That at the time of annually balancing the Suitors' accounts, there should be transferred to a separate Ledger and carried to the Chancery Income and Expenditure Account, balances not exceeding 2*l.* on any accounts, and also balances exceeding 2*l.* and not exceeding 5*l.* on any accounts not dealt with during the preceding year, and that any amount so carried over, with any dividends accrued thereon that may be reclaimed should be made good out of the same Account.

10. That the annual Balance Book should be continued to be made up, and after being signed by the Chief Clerk of the Accountant-General should be deposited on or before the first of November in each year in the Record Office at the Rolls.

11. That purchases and sales of stock on Fund A. should be so regulated in amount as to affect the market as little as possible.

12. That all fees payable into the Suitors' Fee Fund Account should be collected by stamps.

LIST of ACTS and ORDERS referred to in the Report.

<i>Acts.</i>	<i>Page</i>	<i>Acts.</i>	<i>Page</i>
12 Geo. I. c. 32. -	- x, xiii, xiv, xx, xxxv, xlix, l	15 & 16 Vict. c. 87. s. 22. -	- xv
„ c. 33. -	- xiv, xvii	„ c. 87. s. 34. -	- xxiii
12 Geo. II. c. 24. -	- xv, xxxv, xxxvi, lvii	„ c. 87. s. 36. -	- xiv
5 Geo. III. c. 28. -	- xv	„ c. 87. s. 41. -	- xlv
9 Geo. III. c. 19. -	- xv, xxxvi	„ c. 87. s. 46. -	- xv, liv
14 Geo. III. c. 43. -	- xxxvi, xlv	„ c. 87. s. 53. -	- xxxvi, xxxix
15 Geo. III. c. 56. -	- xlv	16 & 17 Vict. c. 70. -	- xli
36 Geo. III. c. 52. -	- xi, xix	„ c. 98. s. 1. -	- xxxix
46 Geo. III. c. 128. -	- xv	„ c. 98. s. 7. -	- xxv
„ c. 129. -	- xv	22 Vict. c. 26. -	- liv
52 Geo. III. c. 54. -	- xvi, liv	23 & 24 Vict. c. 149. -	- xl
55 Geo. III. c. 64. -	- xv	25 & 26 Vict. c. 86. -	- xli
10 Geo. IV. c. 116. -	- xlv		
1 Wm. IV. c. 36. s. 15. rule 7. -	- xl	<i>Orders.</i>	
3 & 4 Wm. IV. c. 36. -	- xl, xli	1686. May 12 -	- xlv
„ c. 94. -	- xxxvii, xxxviii, xl	1701. April 30 -	- xlv
„ c. 94. s. 16. -	- xv	1724. December 17 -	- x
„ c. 94. s. 37. -	- xxxvii	1725. May 26 -	- x, xiii
„ c. 94. s. 38. -	- xxxvii	November 4 -	- x, xii, xv
„ c. 94. s. 44. -	- xxxvii	1726. June 29 -	- xiv
„ c. 94. s. 48. -	- xxxvii	1739. July 2 -	- xxxv
„ c. 94. s. 50. -	- xv	1783. May 5 -	- xlv
1 & 2 Vict. c. 54. -	- xxxv, lvii	1828. April 3 -	- xlv
3 & 4 Vict. c. 94. -	- xvi	July 26 -	- xxxix
4 & 5 Vict. c. 35. -	- xix	August 28 -	- xx
5 Vict. c. 5. -	- xxxv	1842. October 29 -	- xxxix, xl
„ c. 5. s. 63. -	- xliii	1849. November -	- xl
5 & 6 Vict. c. 84. -	- xl, xli	1852. July 27 -	- xxiii
„ c. 103. -	- xxxvii, xxxviii, xl, xlv	1860. Consolidated Orders:	
8 Vict. c. 18. -	- xix	Order 1, Rule 12 -	- xxxiii
„ c. 18. s. 69. -	- xix, lv	„ 1, „ 13 -	- xx
9 & 10 Vict. c. 20. -	- xix, xxxi, lix	„ 1, „ 14 -	- xx
„ c. 81. -	- xl	„ 1, „ 48 -	- liii
10 & 11 Vict. c. 96. -	- xix, xxi	„ 5, „ -	- xvii
15 & 16 Vict. c. 51. -	- xix	„ 12, „ 5 -	- xxxix
„ c. 80. -	- xv	„ 33, „ 3 -	- xxv
„ c. 87. -	- xv, xvi, xxxix, lvii	1862. General Orders, Schedule to, Form 23 -	- lv
„ c. 87. s. 14. -	- xli	1863. Feb. 13 -	- xviii
„ c. 87. s. 21. -	- xv		

APPENDIX.



No. I.

MEMORIAL of the METROPOLITAN and PROVINCIAL LAW ASSOCIATION.

To Her Majesty's Commissioners for inquiring into the Constitution of the Accountant-General's Department of the Court of Chancery, and the Provisions for the Custody and Management of the Funds of the Court.

The humble Memorial of the Metropolitan and Provincial Law Association

Shows,

That the Metropolitan and Provincial Law Association is composed of nearly 800 practising attorneys and solicitors in England and Wales, and its objects have ever been to promote the interests of suitors by the better and more economical administration of the law, and to maintain the rights and increase the usefulness of the profession.

PART I.

That the members of this Association have long felt that the entire existing system of legal finance, and the mode of conducting business relating to it, in the offices of all, or nearly all, the Courts of the kingdom, and especially in the office of the Accountant-General of the High Court of Chancery, is injurious to the suitors, and they have, consequently, in and since the year 1848, made the following efforts to obtain improvements in the administration of that office.

In 1848 they prepared and presented to the then Lord Chancellor, the late Lord Cottenham, a very elaborate memorial, in which the following amendments were, among others since effected, suggested with reference to the banking department of the Court of Chancery:—

- "To dispense, as is done by the Accountant-general in Bankruptcy, with powers of attorney, and to require him to act on letters or such other authority as may be sufficient in law to bar the party, the solicitor of the party verifying such authority.
- "[According to the present practice, there is no evidence given to the Accountant-General that the person signing the power is the party entitled to receive the money under the order.]
- "To allow money to be paid into Court (as Courts of law do) without any order, and also to be invested, as is now done with money paid in under the Legacy Act.
- "To have the orders on which the Accountant-General acts, or an office copy of them, filed with him.
- "To get a branch of the Bank of England established in Chancery Lane for the convenience of the suitors, in the same way as has been done at the Court of Bankruptcy."

This memorial was signed on behalf of the Association by the following members of their equity sub-committee:—

JOHN S. GREGORY, *Chairman.*
JNO. T. T. SUDLOW,
JNO. HOPE SHAW, } *Vice-Chairmen.*
EDWIN W. FIELD.
M. D. LOWNDES.
G. BOWER.
THOS. HOLME BOWER.

Interviews were also had in 1848 on the subject of that memorial by different members of the Association with the Lord Chancellor, the Master of the Rolls, and Solicitor-General; and your memorialists found their views generally approved by those high functionaries.

That in July 1849, the Report of the House of Commons' Select Committee on Fees, respecting which, in 1848, they examined Mr. Parkinson, the Chief Clerk, and Mr. Mortimer, the Broker of the Accountant-General, and many others, and towards the evidence collected by whom several members of your memorialists' Association materially contributed, recommended—

"That the system of brokerage on suitors' funds be discontinued, and that the Accountant-General be paid by

a salary, and that only the balance of the stock required to be bought or sold in each day be bought or sold by the broker, and that the one-eighth per cent. on the funds transferred thereby saved to the suitor, and which but for this alteration would have been actually bought and sold, should be paid to the Suitors' Fee Fund for the benefit of the suitors," and that a percentage should be charged instead of fees on all money transactions.

In 1852 your memorialists petitioned Parliament to abolish the Accountant-General's office, and to substitute a branch of the Bank of England in Chancery Lane, through which the Court of Chancery should pay the suitors as the Government does the public creditors.

This petition, which was signed by Edwin W. Field, Chairman, John S. Gregory, C. J. Palmer, and many other solicitors, was printed and circulated by the Association, and the following are extracts from it:—

"That your petitioners have carefully examined the provisions of the bill now before your honourable House, entitled 'A Bill for the Relief of the Suitors of the High Court of Chancery,' and that it is their conviction, founded upon their practical acquaintance with the working of the Court of Chancery, that the bill will be found of essential value to the suitors and the public.

"That in particular your petitioners view with great satisfaction the acknowledgment, though partial, of the principle of throwing the expense of maintaining Courts of Justice on the public, and not on the suitors, a principle for the adoption of which your petitioners have long contended.

"That your petitioners have also frequently urged that any taxation which may still be considered necessary to be imposed upon suitors, for the maintenance of Courts of Justice, ought not to be levied, as now, on rich and poor alike, as it were by a poll-tax, but should be borne by the suitors, in proportion to the amount of property dealt with. Your petitioners, therefore, view with peculiar satisfaction the provision of the bill, which authorizes the Lord Chancellor to raise a portion of the funds necessary for such maintenance by a per-centage on the sums paid or transferred in the office of the Accountant-General, which provision ought to be extended to all sums received by consignees and receivers.

"That they believe the adoption of this principle will be highly advantageous to the poorer class of suitors, while it will be altogether just towards those who are richer, as it will only compel them to pay for the services of the Accountant-General, as the steward of their property.

"That the bill, if modified as herein suggested, will, in the opinion of your petitioners, go far towards removing the ground of complaint against the Court of Chancery, arising out of the unnecessary expenses attending the proceedings therein.

"That similar provisions to those contained in the bill have been, for several years past, urged upon the attention of your honourable House, and also of the noble persons who have, from time to time, held the Great Seal, both by your petitioners and by many other solicitors; and particularly in a memorial, printed *in extenso* in the report of the Select Committee of the House of Lords upon the bill of last session for giving primary jurisdiction to the Masters in Chancery, which had been presented by your petitioners to the late Lord Chancellor Cottenham, in the year 1848, since communicated to the Lord Chancellor Truro, and submitted by your petitioners on several occasions to Parliament.

"That such memorial, in addition to the suggestions adopted in the present bill, contained several others not yet adopted, but which your petitioners are more and more strongly convinced would also be of essential service; and, in particular, your petitioners regret much that the present bill does not propose to remodel the offices of the Accountant-General and the Clerk of Accounts,* which offices might be dispensed with altogether by the substitution of a new system, in connexion with the Bank of England.

"That it would be as easy for the Court of Chancery to pay the suitors, who may be considered its creditors, through the Bank of England, as it is now for the Government to pay the public creditors.

"That the existing scheme in the office of the Accountant-General was established in the year 1726, by the statute 12 Geo. 1. c. 32., for the purpose of providing a check, at a time when frauds had been committed by officers of the Court, and is a cumbrous, by no means an effectual, and certainly a very expensive method of keeping accounts.

"That the present system aims only at preventing frauds upon the suitors' funds, and errors in the accounts; and it does this by having three entirely distinct sets of books, one kept by the Accountant-General, one by the Clerk of the Accounts, and one by the Bank of England, and by also making the Registrars countersign all cheques; but the system provides no guarantee in case of actual loss occurring.

"That the guarantee of a great public body like the Bank of England, which your petitioners believe can be obtained, would be a complete indemnity to the suitor against any loss by fraud, forgery, or error, and much more economical than the present system; and would also save much time and labour in every transaction.

"That under the present system, the offices of the Accountant-General are shut, during the long and other vacations, altogether about three months in the year, when no money can be paid into or out of Court. It has in consequence not unfrequently happened, that in urgent cases, where the Court has been anxious to place funds in safe custody during the vacation, it has directed such funds to be placed temporarily in a private bank. The inability to procure the payment of money out of Court during the vacation, is also an inconvenience of considerable magnitude to suitors, and operates severely upon those persons entitled to the autumn dividends, the payment of which is thus protracted, to their great inconvenience or injury.

"That another effect of the proposed arrangement would be the establishment of a branch of the Bank of England in the immediate neighbourhood of the Chancery Offices, which would give to the suitors in the Court of Chancery the same facilities and convenience as are already enjoyed, in that respect, by the suitors in the Bankruptcy Court in Basinghall-street, where the magnitude and importance of the money transactions, great as they are, cannot be compared to those of the Court of Chancery.

"That the suitors of the Court of Chancery have been of late years overtaxed, beyond the actual amount required in aid of the surplus income of the Suitors' Fund to pay the expenses of the Court, to the extent, in several years, of more than 50,000*l.* a year. That 201,028*l.* 2*s.* 3*d.* stock now stands on the account called the Account of Monies placed out to provide for the officers of the High Court of Chancery; the whole of which has arisen from the accumulation of surplus fees since the passing of the Chancery Regulation Act, in the year 1833.

"That if Government Annuities, for the lives of such of the officers as have their compensations charged on the Suitors' Fee Fund, were purchased with such last-mentioned stock, so far as the same would extend, the present suitors would have the benefit of the funds which have been improperly taken from their pockets; and that power ought to be given by the said bill to apply the present, and any future surplus of fees, towards the redemption of life charges for the time being affecting the Fee Fund of the Court.

"That the practice of requiring all parties to whom money is ordered to be paid by the Court, or to whom deeds or papers are ordered to be delivered, to give stamped powers of attorney, if they cannot attend personally, is a source of great expense, and some delay and difficulty to the suitors, and should be dispensed with, as it is in Bankruptcy.

"That the revenue to the Stamp Office from this source may be estimated at 2,000*l.* a year; and that the provisions made by the present bill for abolishing all fees at present taken by the officers of the Court, will save the Stamp Office an expenditure of upwards of 400*l.* a year it now incurs in payments to the clerk of the Accountant-General, for requiring proof of the payment of legacy duty; and that the present opportunity of abolishing the practice as to powers of attorney, or at any rate the stamp duty thereon, should not be lost."

On September 16, 1852, the Metropolitan and Provincial Law Association memorialized the Lords Commissioners of the Treasury as to the staff of this office.

In the same year the Incorporated Law Society, of which many of your memorialists are also members, appointed a numerous Committee of the Solicitors most experienced in Equity Practice, twenty-nine of whom, representing by their proper and agency business perhaps half the suits in the Court of Chancery, signed a report on the whole subject of Equity Reform, which was printed by the House of Commons on the motion of Sir James Graham.—(Parliamentary Paper, House of Commons, 1852, No. 216.)

As regards this office they suggested, among other reforms since effected,—

"That the Slave Compensation system of orders should be adopted.

"That affidavits of calculation be abolished.

"That powers of attorney be dispensed with.

"That money be paid into Court without order, and invested without requests, every half-year.

"That all orders on which the Accountant-General acts should be filed in his office.

"And that a Branch Bank of England should be established in Chancery Lane."

In 1853, on March 31st, your memorialists' Association wrote to the Lord Chancellor, inclosing a copy of their petition to the House of Commons in 1852, and again recommending the abolition of this office, and representing the inadequacy of the staff.

The reply of the Lord Chancellor's Secretary stated that the whole subject was under consideration.

In 1853 this Association again petitioned Parliament to abolish the Accountant-General's Office.

The Report of the Association for the year 1853, which was printed and circulated among the Members of the Association and others, in the usual way, contains much important matter on this subject.

The following are extracts from this Report:—

"The Committee have urged that the entire office of the Accountant-General might, with great advantage to the suitors, be dispensed with altogether by the substitution of a new system in connexion with the Bank of England, through which it would be as easy for the Court of Chancery to pay the suitors, who are, in point of fact, its creditors, as it is now found to be for the Government so to pay the public creditors. The existing proceedings connected with the Accountant-General's office abound with useless forms and technicalities; a common money-order, indeed, is a document which, to the uninitiated, would be wholly unintelligible, and one which is really discreditable to a British Court of Justice. The security of the suitors would be manifestly increased by obtaining the guarantee of the Bank of England. The present system is only designed to be a check, and, as such, it has already proved to be inefficient and unsafe. Such a new system would also confer the great advantage upon the suitors of being able to obtain their dividends and to pay money into Court at a time when the Accountant-General's office is shut. Another essential feature of any such new arrangement ought to be the establishment of a branch of the Bank of England in Chancery-lane, which would give to the suitors in the Court of Chancery the same facilities as are already enjoyed in that respect by the suitors in the Bankruptcy Court in Basinghall-street, where the magnitude and importance of the money transactions, great as they are, cannot be compared to those of the Court of Chancery, while the distance from the Bank of England itself is comparatively insignificant.

"Upon the passing of the Suitors in Chancery Relief Bill, the Committee were apprehensive that the clause prohibiting any officer of the Court to take any fees or gratuities for his own use, would, in the case of the Accountant-General's office, be productive of considerable inconvenience, for it is well known that the clerks in that office have hitherto been in the habit of receiving

* This office has since been abolished.

gratuities at the period of the year just previous to the closing of the office for the vacations, in consideration of which they have expedited matters by working over hours, by which means the suitors have been enabled to get monies paid to them which, without such extra labour, would, to their great inconvenience, and perhaps, injury, have been postponed till the re-opening of the offices.

"It is, indeed, notorious in the profession, that at such times of extraordinary pressure the ordinary staff of clerks is insufficient to perform the duties of the office within business hours, and this difficulty cannot be met by increasing the staff, because temporary clerks sufficiently competent and responsible could not be found. The Committee, therefore, presented a memorial to the Lords of the Treasury, submitting that it would be desirable that such additional duties should continue to be performed by the same clerks; and that, by additional remuneration at times of pressure, they should be induced or required to devote, as under the old practice, such extra time and attention as might be necessary for the disposal of all the business in the office. The Committee also suggested that it would much facilitate the business of the office of the Chief Clerk to the Accountant-General if he were allowed to sign all voluntary certificates of purchases and sales, and all other formal documents not involving the receipt or payment of money, those documents being at present signed by the Accountant-General, and occupying a considerable portion of his time, on the sole responsibility of the Chief Clerk. A copy of this memorial was also transmitted to the late Lord Chancellor, but it does not appear to have been acted upon, and the inconvenience foreseen has accordingly arisen. The Committee have therefore brought the subject before the attention of the present Lord Chancellor, who, they trust, may be induced to provide a remedy."

In 1854 the Association reported that they were convinced the only sound principle was to do away with this office altogether.

That from the year 1853 to 1856 the consideration of the reform of the Court of Chancery was much removed from the action of the Legislature by the existence of the Chancery Commission, on which not one single solicitor or officer of the Court who had been a solicitor was appointed, although the Lord Chancellor was memorialized to take that step. The existence of this Commission, so constituted, materially deadened the efforts of the solicitors for several years.

That in 1856, in the third Report of the Chancery Commission, the Accountant-General's office was only incidentally touched on, viz., as to the proposed abolition of the counter-signature of drafts by the Registrar (which abolition both Registrars and many solicitors had advocated), but which was reported against by the Commission. (See page 12, Report, and Accountant-General's Letter, page 210.)

In 1857, in July, the Incorporated Law Society's Equity Committee made a report, of which they sent a copy to the Lord Chancellor, commenting, *inter alia*, as to this office:—

"On the insufficient attendance, on the time taken in operations, especially in cases of sales or transfers of stock, preparing drafts, and making out powers of attorney;"

and again recommended that the whole establishment should be converted into a branch of the Bank of England.

The following is an extract from this report:

"III.—The Accountant-General's Office.

"In the office of the Accountant-General an improved system is urgently required. There seems no reason why the suitors should not have their business transacted with punctuality and despatch equal to that with which the business of the public is transacted by the Bank of England.

"The contrast between the Bank of England and the Accountant-General's Office is most remarkable. Except for four days in the year, and during the time when the transfer books are shut for the dividends, the Bank is open for the transfer of stock at three hours' notice every day in the week; on four days without fee; on the other two days on payment of a very trifling fee. The Accountant-General's Office is close shut for vacations, averaging 102 days in the year, of which 36 days are not part of the long vacation, and these 36 days occur at the very busiest periods of the whole year. When the office is open the Accountant-General transfers stock on two days only in each week; he requires, at least, three days' notice before he acts upon the order for transfer or sale of stock; and his clerks take two

days more after the stock is sold to prepare the draft for the money. The result is that the suitors have to wait at least five days to get business done through the Accountant-General, which the public, through the Bank, gets done within a few hours, or, at the most, in one day. The suitors are also subjected to an additional day's delay and additional expense, in consequence of the Registrar's directions being required, besides the order of the Court, in all cases of transfer or sale of stock, which, it is submitted, is a useless form, and ought to be abolished. A power of attorney also, which, if bespoken at the Bank before 12 o'clock, can be obtained the same day, cannot be procured from the Accountant-General's Office in less than two or three days; and at the busiest period of the year, when despatch is of the utmost moment to the suitor, a longer time is required. In addition to this, the execution of the power of attorney has to be verified by an affidavit, while no such verification is requisite for a Bank power.

"The extent and magnitude of the business transacted by this office of the Court is apparent from the fact that the gross amount of funds under its control is upwards of 50,000,000*l.*, that the average annual receipts amount to about 7,000,000*l.*, and the annual average payments to about the same sum.

"The loss and inconvenience now sustained by the suitors, under the present system of management, render it highly desirable that a new system should be introduced; and this object would be attained in the easiest and most effectual way by converting the office at once into a branch of the Bank of England, and placing in it some competent persons acquainted with the routine of common banking, so that the business of the suitors may be transacted in the time ordinarily occupied by similar business, and (except during the long vacation, which it is not proposed to abolish) the days and hours of attendance may be assimilated to those of the Bank of England, a fair increase of the clerks' salaries being allowed.

"It is at the same time submitted that the office should continue open for at least 10 days longer than at present, after the Court rises for the long vacation,—the time now allowed for carrying out the orders of the Court for the sale or transfer of stock, and payment of money, after the Court has risen, being quite insufficient for the purpose.

(Signed) "EDWD. LEIGH PEMBERTON,
"President."

PART II.

That your memorialists would earnestly impress on the members of the Royal Commission the urgent necessity that exists for making extensive improvements in this office, and beg respectfully to suggest the following points in the present system as those which call most loudly for alteration and amendment.

1. That there is no officer whose duty it is to see that suitors are not taxed beyond what is actually required, while the existence of the profit funds in the Report of the Concentration of Courts and Offices Commissioners, called Funds B and D, and the fact that they had been permitted to accumulate to such an enormous sum as one million and a half, instead of having been used for the benefit of the suitors of the past generations, during which they were accumulated, shows the urgent need of frequent periodical overhauling. Thus, in 1852, fees producing (say) 50,000*l.* a year, were taken off, which might have been long before remitted, and there is now a considerable cash balance arising from surplus fees levied.
2. The deduction of double income tax, arising in the following manner: a certain sum, taken from the incomes of the Suitors' Fund, and of the fund from surplus fees, after income tax has been deducted, is annually applied in payment of salaries and compensations, on which the tax is afterwards paid by the recipients; to the extent, therefore, of this sum, the income tax on these salaries and compensations is deducted twice over.
3. By selling or purchasing the balance only of stock required on any particular day, the chief part of the double one-eighth to the stock-jobber and broker on the entire sales and purchases, which probably now amounts to 20,000*l.* a year, might be saved. The present practice in this respect was (mainly on the evidence of solicitors) reported against by the House of Commons' Select Committee on Fees in 1849, but it has nevertheless been continued ever since.

4. Although no reason has been discovered for doubting the perfect fairness with which these sales and purchases are conducted, still there is no security of which your memorialists are aware to prevent undue advantage being taken of the fluctuations of the price of stock during the day, or of the power of influencing the market.
5. The Bank of England is paid by a 300,000*l.* balance (see Mr. Parkinson's evidence in Report of the Concentration of Courts Commissioners last year), but there is no one to see from time to time that it does not exceed that sum. It was above 698,000*l.* in 1859.
6. The great inconvenience caused to suitors :—
 - 1st. From having to go to two places for their money.
 - 2nd. From having to wait five days for the completion of every sale and payment of money.
 - 3rd. From so many months' holiday per annum being taken.
 - 4th. From there being no staff to meet the times of pressure before vacation.
7. The following particular details also occasion unnecessary expense :—
 - 1st. The keeping of two sets of books and clerks, and all the accounts in duplicate.
 - 2nd. The requiring powers of attorney instead of mere letters, to take out the drafts which are all payable on the mere indorsement of the party.
 - 3rd. The requiring an order to pay the personal representative of a deceased payee.
 - 4th. Affidavits of calculations.
 - 5th. Registrars giving directions or certificates for sales, and countersigning drafts for interest, after the first payment, in which last case, no order being required to be produced to them, their countersigning has become a mere valueless ceremony. Their countersignature of drafts for principal monies occasions much inconvenience and expense. It may be true that it operates as a check on the Accountant-general, but it might be dispensed with, and some less inconvenient plan substituted.
 - 6th. The absence of an office reference to the record.

PART III.

Your memorialists would also beg humbly to offer the following suggestions and general observations, premising that they are fully aware that much of the subsequent matter of this memorial relates to subjects not included in the reference to the present Royal Commission, but they feel that the whole question of legal finance is so bound up with that of the taxation of the suitor, that it is quite impossible to give due consideration to the one subject without entering on that of the other. Thus the House of Commons' Committee, in 1848, which was appointed only on the fee question, found itself obliged to go into the two subjects, and examined the broker and chief clerk of the Accountant-general (Messrs. Mortimer and Parkinson), and your memorialists cannot refrain from expressing their hope, that the terms and constitution of the present Commission may be extended to the consideration of legal finance, and the taxation of the suitor generally in all the Courts of England, in order that this very important subject may be investigated in the most comprehensive manner.

All Courts more or less require a banker, and your memorialists are of opinion that there should be, as far as possible, one Joint Banking Department for all the Courts

of Justice, both superior and inferior, including the Court of Bankruptcy.

This Banking Department ought to be a source of profit, and some competent officer should be appointed to superintend it, so as to insure the realization of as large a profit as possible, and its accounts should be annually overhauled and audited by some responsible officer.

Your memorialists would suggest, also, that at this Banking Department a State Deposit Account might be instituted, where money under the control of any Court, for too short a period to make an investment in stock prudent, might be made productive, though the rate of interest might justly be very low, only just sufficient to give a profit. Suitors might be left the option of depositing their money here, or investing in stock.

Of course, as long as fees are taken from suitors, all banking profit should go to aid the suitors; but your memorialists are of opinion, that the principle laid down in 1849 by the House of Commons' Select Committee on Fees, of taxing monetary steps by way of per-centage (which would be the practical effect of their present proposal) should be the governing one, as it gets away from the unjust poll-tax system, and puts the incidence of the tax where it ought to be, on property. And if that principle be adopted, then the profits of such banking will go for the benefit of the suitors paying such per-centage.

At present there is no uniformity of principle in assessing or levying fees, or in seeing that they are duly accounted for.

The Common Law Procedure Acts have all passed since the Report of 1849, and yet no provision for collection by stamps is made in them.

In the Common Law Courts there are rather above 100 persons who collect fees as stewards for the Treasury, without any efficient check; and your memorialists are unable to ascertain that any means exist of detecting defaulters in these Courts, or in the Local and County Courts.

Strange to say the Court of Chancery has not yet fully applied the principle of collection by stamps. The taxes levied on proceedings at the Inrolment Office, at the Petty Bag Office, and with the Lord Chancellor's personal officers, are still collected by the officers in money.

Under these circumstances your memorialists earnestly desire that inquiries should be made into—

The whole system of collecting fees.

The existing arrangements, and the most desirable way of providing for the custody, paying in and out of Court, and investing of the funds of suitors in all Courts, whether of Law, Equity, Bankruptcy, Admiralty, Probate, or County Courts, in England and Wales.

The best mode of auditing the accounts of all officers and agents employed; and of securing and auditing the accounts of all fees levied on suitors for the maintenance of courts, officers' salaries, &c., and of bringing the whole subject annually under direct Parliamentary control.

Your memorialists humbly pray that you will be pleased to take the matters of this memorial into consideration, and to receive the evidence which members of your memorialists' association, as practising solicitors, are able to give upon a subject with the details of which they are so intimately acquainted, and which so materially affects the interests of their clients, the suitors.

Signed on behalf of the association,

THO. KENNEDY, *Chairman.*

PHILIP RICKMAN, *Secretary.*

No. II.

MEMORANDUM prepared in April 1861 by Mr. P. W. ROGERS (with the assistance of Mr. COOKSON and Mr. FIELD) for the use of the Members of the "Chancery Funds Commission."

1. As to the Constitution of the Accountant-General's Department of the Court of Chancery, the Forms of Business in use therein as to the Suitors' Monies, and the Provisions for the Custody and Management of the Stocks and Funds of the Suitors.
 2. As to the Business transacted in the same Department on behalf of the Public, with reference to the Monies arising either from the Banking profits or by Taxation of Suitors applicable towards the Maintenance of the Court. With
- Marginal Observations by the Accountant-General thereon.

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PART I.

BUSINESS DONE FOR THE SUITORS.

I.—INTRODUCTORY STATEMENT.

(1. Every Court of Justice has from time to time to act as stakeholder as between suitors, and as such to keep monies to which the title is under investigation. Courts of Administration (such as the Chancery Court) have also to act as a trustee, and as such to pay dividends to tenants for life, &c., and to distribute principal money among parties whose title is not in dispute, as they become of age, or otherwise entitled to receive it.

(2.) The proceedings in the interesting trial of Lord Chancellor Maclesfield, as reported in the "State Trials," (vol. 16), furnish (it is believed) the earliest existing account of the Funds of the Suitors of the Court of Chancery. From these proceedings it appears that *prior to 1725 it was the practice for the Chancery suitors to deposit all their monies and effects which were ordered to be brought into Court with the Usher or one of the Masters thereof, by whom the monies so deposited were employed for their own personal benefit, the advantage arising from such employment constituting in fact a portion of the profits of their respective offices. About that period, however, (which was that of the South Sea Bubble) it was discovered that several of the Masters were defaulters, and unable to make good to the suitors the monies which had been so deposited with them. †These defaults (which amounted to upwards of 100,000*l.*) became the subject of Parliamentary inquiry and interference, and measures were promptly taken to indemnify out of the public revenue the suitors whose property had thus been misappro-

* Vide also Report of 1860 on Concentration of Courts of Justice, paragraph 30.
† Vide Acts of 13 Geo. 1. c. 33. and 9 Geo. 2. c. 32. in the same Report on Concentration of Courts of Justice, pp. 131 and 136.

priated. At the same time, in order to protect the public against the recurrence of similar abuses, a General Order, of the 4th November 1725, was made by the Lord Chancellor, prescribing certain regulations for better securing the monies and effects of the suitors. This General Order was incorporated in and confirmed by the Act of 12 Geo. 1. c. 32., and the regulations thereby prescribed still remain in force, with this exception, that the Act 15 & 16 Vict. c. 87. s. 36. (1852) directed the account of monies of the suitors kept at the Report Office (which was a triplicate account) to be discontinued, and the Office of Clerks of Accounts to be abolished.

II.—ACCOUNTANT-GENERAL'S OFFICE.

(3.) By this Act of 12 Geo. 1. c. 32., before mentioned, it was enacted, that there should be one person appointed by the High Court of Chancery to act, perform, and do all such matters and things relating to the suitors' monies and effects as were [by the said General Order] prescribed and directed to be done and performed by the Masters and Usher of the same Court; and such officer so to be appointed was to be called "The Accountant-General of the Court of Chancery," and to hold such office during the pleasure of the Court, *but was not to meddle with the suitors' money, but only keep the account with the bank** (a). No qualification for the Office of Accountant-General [or, it is believed, for the office of Master] was prescribed, but the first and second persons appointed to that office were Masters of the Court, who continued to perform their ordinary duties in addition to those of the Accountant-General. (b) All the persons who have been subsequently appointed to the office of Accountant-General were contemporaneously appointed to the office of Master, but only performed the duties of the latter office to the limited extent of attending in rotation with the other Masters at the Public Office to administer oaths, and also in the House of Lords. Both these last-mentioned duties have been transferred to other officers, and the Masters have been abolished by the Acts 15 & 16 Vict. c. 80. and 23 & 24 Vict. c. 149. s. 1.; but by the 20th section of the Act of the 15 & 16 Vict. c. 87. the rights, privileges, or duties of the present Accountant-General as one of the Masters were preserved. (c) No provision, however, has been made for the discharge of the duties of the Accountant-General during temporary absence, which had been theretofore performed by one of the Masters. The Accountant-General, in addition to his salary, payable out of the Suitors' Fund, of 600*l.* as Master, and 900*l.* as Accountant-General, was, up to 1852, remunerated by sharing with his Broker (in the proportion of three-fifths to the Accountant-General, and two-fifths to the Broker,) the brokerage on the stock bought and sold on each day; but by the 19th section of the said Act of 15 & 16 Vict. c. 87. such three-fifths of the brokerage instead of being paid by the Broker to the Accountant-General was directed to be paid *by him* into the Suitors' Fee Fund Account, and a salary of 2,700*l.* a-year (being the average amount of his share of that brokerage for the preceding five years) (d) was to be paid out of such Suitor's Fee Fund to the present Accountant-General in lieu of such brokerage, so that the salary of the present Accountant-General is 4,200*l.* per annum; but by the 22nd section of the same Act the salary of each future Accountant-General is to be 3,000*l.* per annum, payable out of the Suitors' Fee Fund.

(4.) The establishment of the Accountant-General consists at present (1861) of 35 Clerks† at the following salaries, viz. :—

	£
(e) 5 Chief Clerks, at 800 <i>l.</i> each	4,000
4 Second Class Clerks, at 510 <i>l.</i> each	2,040
4 Third Class Clerks, at 340 <i>l.</i> each	1,360
4 Fourth Class Clerks, at 250 <i>l.</i> each	1,000
4 Fifth Class Clerks, at 190 <i>l.</i> each	760
4 Sixth Class Clerks, at 150 <i>l.</i> each	600
4 Seventh Class Clerks, at 120 <i>l.</i>	480
6 Eighth Class Clerks, at 100 <i>l.</i>	600
Total Clerks' Salaries	£10,840
Add Accountant-General's salary	4,200
Total	£15,040

This expense does include (f) the Broker's remuneration, or the office expenses, or pensions to retired Clerks, estimated together at 5,500*l.*, nor does it include the expense of keeping up the Chancery Office at the Bank of England (g).

(5.) By the 21st section of the Act of 15 & 16 Vict. c. 87. the Treasury was empowered to make regulations as to the brokerage, but no such regulations have been made, and the Broker continues to retain two-fifths of the brokerage as his remuneration, and such share of the brokerage in 1859 amounted to 3,097*l.* 7*s.* 6*d.*

(6.) The Clerks of the Accountant-General are appointed and promoted by order of the Lord Chancellor, on the recommendation of the Accountant-General; and such promotion has hitherto always taken place according to seniority, except in cases where it has appeared

Observations by the Accountant-General.

(a) The words in italics should be, "but should not meddle with the actual receipt of any of the money or effects of the suitors, but should only keep the account with the Bank." The succeeding words of the Act are by way of definition of the several liabilities of the Accountant-General and the Bank of England.

(b) This is not precisely accurate. In one case (that of Mr. Waple) the Accountant-General was never a Master. In others (as that of Mr. Campbell, Mr. Smith, and Mr. Harvey) the office of Accountant-General was conferred on persons who were at the time filling the office of Master, but ceased to discharge what may be termed their judicial duties on becoming Accountants-General. The office of Master, up to the passing of the Chancery Regulation Act, was matter of investiture only by the Lord Chancellor—by that Act it became the subject of patent. Some ambiguity of construction attached to the combined appointment of Accountant-General and Master, and the present Accountant-General (appointed in 1839) was, under the opinion of Lord Chancellor Cottenham, made Master by patent as well as by the more ancient ceremonial of investiture.

(c) The present Accountant-General has twice during his term of office been prevented by severe illness from attending to his duties for some weeks. The Lord Chancellor on one occasion made an order empowering one of the Masters to discharge his duties at the Bank only, and on the other to transact them all. The authority was by order according to former precedents, and authorized the Bank to act upon the signature of the person named as "for the Accountant-General."

(d) Three years. This principle of calculation was adopted by the Home Secretary in the framing of the Act, the Accountant-General having been invited to name a sum by way of compensation, but having declined to do so.

(e) One Chief Clerk, and four First Clerks.

(f) Of the Broker's remuneration, the amount paid in by him annually is, *pro tanto*, in diminution of the cost of the office.

(g) No charge is made by the Bank of England. They are supposed to be remunerated by the cash balances in their hands.

* At this period (1726) the amount of the suitors' cash and securities in Court was 741,960*l.*, viz., 589,533*l.* securities, and 152,037*l.* cash, and the number of suitor's accounts in Court was 415. The annual increase from that period to 1859 is stated in the Report on the Concentration of Courts of Justice, page 105.

† At its first institution in 1725, and down to 1764, it consisted of two Clerks only, and has since been periodically increased to its present number.

Observations by the Accountant-General.

advisable to deviate from that rule. And with respect to first appointments, the Accountant-General satisfies himself, by examination, of the fitness of the person to discharge the duties of a Junior Clerk, but no bond or any security is given by any of the Clerks.

(7.) The establishment of the Accountant-General is subdivided into the following four divisions, according to the initial letter of the titles of causes and matters :—

A to C inclusive	-	-	-	1st Division.
D to I inclusive	-	-	-	2nd Division.
K to Q inclusive	-	-	-	3rd Division.
R to Z inclusive	-	-	-	4th Division.

One of the Chief Clerks acts as Principal Clerk to the Accountant-General, and is assisted by the Junior Clerk (a), and each of the other Chief Clerks presides at the head of the several divisions among which the rest of the Clerks are distributed.

The Chief Clerk at the head of each division, as well as the two next Senior Clerks in each division, attend upon the public (b) for delivery out of drafts,* and the work of the remaining four Clerks in each division is principally to keep the accounts, but it is understood that there exists in the office a statement signed by the Accountant-General showing the duties prescribed by him to be performed by each Clerk.

(8.) The Accountant-General's Office, pursuant to the 5th of the Chancery Consolidated Orders, is closed for the following periods during each of the four Chancery Vacations, viz., Christmas Vacation, 12 days; Easter Vacation, 11 days; Whitsun Vacation, 11 days; and the Long Vacation, from about 20th August to 28th October (except during three days in October, when it is opened for delivery out of drafts for the October dividends), making together 103 days.

(9.) The hours of attendance are from 10 to 3, and from 4 to 6, but drafts are delivered out only from 11 till 3, except drafts in favour of bankers (c), which are delivered out half-an-hour earlier. The attendance from 4 to 6 (d) is merely nominal, and no business is then transacted, except on the last two days before each Long Vacation. For the period of about a month before the Long Vacation in each year the staff of the Office is not equal to the efficient despatch of the increased business of the Office, and no means at present exists of rendering any temporary assistance (e).

(10.) The retiring allowance to which the Accountant-General's Clerks are entitled is regulated by the Private Act of 52 Geo. 3. c. 54., whereby it was enacted, that the Lord Chancellor might order an annuity to be paid to any Clerk in the Accountant-General's Office after thirty years' service, and to any Clerk becoming infirm after fifteen years' service, such annuity not to exceed the yearly sum payable to such Clerk at the time of making his application for such annuity.

III.—MODE OF TRANSACTING THE SUITORS' BUSINESS IN THE ACCOUNTANT-GENERAL'S OFFICE.

1. Paying Money into Court.

(11.) No money can be paid into Court to the credit of any cause without an order being first obtained authorizing such payment, and in Schedule No. 1. is the form of an order obtained by a purchaser, authorizing payment into Court of the purchase money for property sold under the direction of the Court.

Schedule No. 1.
Order to pay money into Court in a cause.

(12.) This order, when completed by the Registrar, is not transmitted by him to the Accountant-General's Office, but remains in the Registrar's Office until called for by the purchaser's solicitor, and is then by him left in the Accountant-General's Office, and a certificate (usually termed a "direction") to the Bank or England to receive the money bespoken. This direction is entered in a book called a Direction Book, and signed by the Accountant-General, and may be usually obtained by the solicitor on the second day following, when the order is returned to the solicitor with the direction. The Consolidated Chancery Order, No. 1, Rule 48, directs that every Order and Certificate made in any cause shall be distinguished by having written or stamped thereon the year, the letters, and the number by which the cause is distinguished in the Cause Books kept by the Clerks of Records and Writs (f), but the certificates issued by the Accountant-General do not appear to be so distinguished, and no evidence is, in any case, retained in the Accountant-General's Office of the authority for any transaction. The direction and the cash to be paid in are then taken to the Bank of England, and the person paying in writes his name and address on the top of the Bank notes in front, and hands them to one of the cashiers in the hall, who marks, cancels, and returns them to him. If there is any balance in cash, it is paid in to one of the tellers at the counter, who gives a ticket for the amount; after which the direction (with the cancelled notes and ticket) is taken, by the person paying in, to (g) the Chancery Office in the Bank, where a receipt is given to him for the amount paid in, which receipt is then taken by him to the cashier in the hall for his signature. The receipt must then be left at the Accountant-General's Office, by the person paying in, whereupon the Accountant-General annexes to the receipt a certificate† that the payment in has been made pursuant to the order,

Schedule No. 2.
Direction from the Accountant-General to the Bank of England to receive cash.

(f) The directions to pay in and certificates to carry over, are not entitled in any cause; they are not entitled at all—they begin with a date, and then "I do hereby certify," &c. These documents have never been considered as coming within the scope of the Order referred to, or rather of the previous Order of 1855, and the inexpediency of treating them as doing so was fully discussed and understood in conference between the Vice-Chancellor Kindersley and the Accountant-General and one of the Registrars at the time of his Honour's carefully settling the Orders of 1859 affecting the Accountant-General's proceedings.

(g) It is taken to the General Cash Book Office, which is quite distinct from the Chancery Office.

(h) It is called a "note" in the Act 12 Geo. 1. c. 32. It is directed to be written on cheque paper, and in the Act 15 & 16 Vict. c. 18. s. 36. it is called a "note or cheque."

* These "drafts" are sometimes, but improperly, called (h) "cheques;" they are merely certificates from the Accountant-General to the Bank of England, certifying to the Bank the fact that an Order has been made authorizing the payment of the money therein mentioned. The form of a draft will be found, *post*, p. 12.

† Of every transaction relating to suitors' monies, stock, or other effects, a certificate is made by the Accountant-General, and filed by him in the Report Office.

Schedule No. Bank receipt and Accountant-General's certificate of payment of money into Court.

and the receipt and certificate are transmitted by him to the Report Office to be filed, from whence an office copy thereof may be obtained on payment of 4d. per folio of 72 words at the expiration of two clear days, but during this period the person paying in is left without any voucher for such payment. The time occupied (a) in obtaining and drawing up such order for payment in, and in obtaining the directions to pay in, and the office copy certificate of such payment is usually a fortnight at least.

The amount of cash so paid into Court is placed by the cashier of the Bank to the credit of the account of "William Russell, Esq., Accountant-General of the Court of Chancery," and such amount of cash as well as other cash paid into Court by the suitors "shall be and be accounted" and taken to be *one common and general cash*, and shall be one promiscuously issued and issuable, when and as the Court of Chancery shall direct, for the answering, paying, and clearing the debts and demands of any of the suitors of the said Court.*

(b) In the Chancery Office at the Bank the amount so paid in is entered in the books kept in that office to the credit of the particular cause or matter mentioned in the direction. In causes the account is raised by the surnames of the first plaintiff and of the first defendant, thus,—"*Jones v. Williams*;" but when a separate account is added, it becomes much extended. In matters the account is not curtailed, and frequently extends to 25 and 30 words, and when a separate account is added thereto it sometimes runs to double that number. On the same evening that every such amount is paid into the Bank, a note thereof is transmitted (c) from the Chancery Office in the Bank to the Accountant-General's Office, where it is (d) the next day entered to the same credit in the books kept by the Accountant-General; and on the cashier's receipt for the amount paid in being left in the Accountant-General's Office, it is checked with the entry in the books in his office. Previously to 1852, on the receipt and certificate being filed in the Report Office, a similar entry thereof was made there in their triplicate set of books; but these being considered no longer necessary, were discontinued under the 36th section of the Act of 15 & 16 Vict. c. 87., as before mentioned.

(13.) In the following cases monies are authorized to be paid into Court without any order being obtained for that purpose:—

1. Under 36 Geo. 3. c. 52. s. 32. authorizing an executor to pay into Court a legacy bequeathed to an infant or person beyond seas, the Accountant-General issues his direction for such payment on the certificate of the Inland Revenue Department of the duty thereon being paid.
2. Under 9 & 10 Vict. c. 20. directing subscribers to works or undertakings to be effected under the authority of Parliament to pay into Court a deposit under the Standing Orders of Parliament, the Accountant-General issues his direction for such payment on the warrant of one of the clerks of the Private Bill Office of the House of Commons.†
3. Under the 10 & 11 Vict. c. 96. empowering trustees to relieve themselves from responsibility by paying the trust fund into Court, the Accountant-General issues his direction for such payment on the affidavit of such trustee, (e) stating the amount and particulars of such trust fund, and the persons interested therein.
4. Under the 4 & 5 Vict. c. 35. and 15 & 16 Vict. c. 51. (Copyhold Enfranchisement Act), authorizing the consideration money, in cases of the owners (f) being under disability, to be paid into Court, the Accountant-General issues his direction on the written request of the solicitor of the person paying in any money.
5. Under the 8 Vict. c. 18. (the Lands Clauses Consolidation Act, 1845), authorizing in certain cases compensation monies for land taken by the promoters of an undertaking to be paid into Court, the Accountant-General issues his direction for such payment on the written request of the solicitor for such promoters, but by the 88th section of the same Act it is provided that during the period of the year when the Accountant-General's Office is closed, the promoters of the undertaking (g) may make such payment on a request signed by their secretary or solicitor; but this provision is coupled with the condition that, at the opening of the offices after such payment, the usual direction, *nunc pro tunc*, shall be obtained for payment in, of the same amount (h), notwithstanding it had been paid in previously. Numerous payments are from time to time made under the two last-mentioned Acts (i) to the same account, but it does not appear on the account in respect of what particular property or ownership referred to in the book of reference the money is paid.

2.—Transferring Stock and Securities into Court.

(14.) The Acts of 9 & 10 Vict. c. 20. and 10 & 11 Vict. c. 96., just referred to as authorizing payments into Court to be made without any order, extend also to authorizing the transfer of stock into Court (j), but in all other cases an order must be obtained authorizing such transfer before it can be made.

Observations by the Accountant-General.

(a) The time occupied in the Accountant-General's Office from first leaving the order to the direction being ready rarely exceeds two days. The directions are frequently ready on the day after the day they are bespoken, and on occasions of emergency (such as injunction suits, &c.) they are often obtained on the same day they are bespoken. As to obtaining and drawing up the order that is connected with the department of the Registrar, and as to getting the office copy of the receipt, that depends upon when the party paying in leaves the receipt at the Accountant-General's Office, and also upon the time when he bespoken the office copy at the Report Office. The certificate of the Accountant-General is usually annexed to the receipt, and signed by him the day after the receipt is left at his office, and it is then immediately filed at the Report Office. The Accountant-General has nothing to do with the time taken in making the office copy. It should be remarked that credit is given in the proper account for the money paid in, quite irrespective of the question whether the receipt has been brought to the office or not; the note transmitted by the Bank (as mentioned in the text), and the previous entry in the direction book, affording every particular connected with the payment in.

(b) The directions are sent from the General Cash Book Office to the Chancery Office on the following morning, so that the cash is not entered at the Bank to the particular account to which it belongs until the day after it is paid in.

(c) From the General Cash Book Office of the Bank.

(d) Frequently in busy times on the same evening.

(e) And other particulars prescribed by the General Order.

(f) And also in other cases mentioned in a later Act.

(g) They may deposit money in the Bank of England, but not to the credit of the Accountant-General.

(h) The direction is obtained in the usual manner, and the Bank accept their own certificate, given at the time the money was deposited with them, as money, and they then place it to the Accountant-General's account.

(i) It is placed as directed by the Acts. Under one clause of the Lands Clauses Act, the property in respect of which the money is paid in is described in the title of the account; under another, the person interested in the land is mentioned; but under the "Disability" Clause, money is paid in to one common account, entitled "*Ex parte the Promoters of the Undertaking in the matter of the Special Act*," (citing it). For money paid in under the Copyhold Acts, the direction, and consequently the receipt, always names the manor in respect of which the payment in is made.

(j) Not quite correct, as the Masters in Lunacy direct it to be done by their certificates only, *without fiat*.

(k) These deposits are paid in, pursuant to Standing Orders, in the early part of January, and they are paid out as soon as possible after the rejection or withdrawal of the respective Bills. They do not necessarily remain in Court until the termination of the session. If the Bill passes, the deposit may or may not remain in Court, according to circumstances. Orders can be, and are occasionally, obtained by the parties interested for the investment of these deposits in Stock or Exchequer Bills, so that in those cases in which the parties paying in have derived no benefit therefrom it has been because they have not thought fit to incur the risk of loss from investment.

* Vide Act of 12 Geo. 1. c. 63. in Report of 1800 on Concentration of Courts of Justice, p. 134.

† Under this Act very large sums of cash are paid in during (k) the month of February in each year, and are paid out in the month of August following, on the termination of the session of Parliament. In 1846 the amount so paid in was upwards of six millions, and on each succeeding year the amount has averaged one million; and during the period it has so remained in Court, neither the persons paying it in, nor the suitors as a body, have received any benefit therefrom.

Observations by the Accountant-General.

Such order is usually to the following effect :—

“ Order that the defendant C. D. do (or be at liberty) on or before
“ the day of , 1861, (to) transfer 1,000*l*.
“ Bank £3 per Cent. Annuities into the name and with the
“ privity of the Accountant-General, in trust in this cause,”
(i.e. the cause wherein the order is entitled).

(a) This is not a certificate nor a direction. (See Form B 1, in Accountant-General's Statement.) It is a transfer ticket, telling the Bank to whom and to what account (in trust) the transfer of the stock is to be made. It shows the Accountant-General's privity with the transfer.

(b) It has been signed for a very long period by the Chief Clerk.

(c) In trust to attend the orders of the Court.

(d) The following will be the correct statement of this process :—The ticket remains in the Stock Office, and nothing is known of the transfer in at the Chancery Office until the Accountant-General himself sends information of it. Whenever the Accountant-General goes to the Bank he accepts the stock transferred to his account, since the last time he was there, and then signs a notification for the Chancery Office, addressed to the Chief Accountant, informing him of the acceptance, and of the particular cause, matter, or account to which the stock is to be placed. When the stock is accepted, the Clerk of the Stock Office signs a certificate of the transfer in, which is transmitted to the Accountant-General's Office the same evening. It is annexed to one previously made out at the latter office, and, the Accountant-General having signed his own certificate, the two are filed at the Report Office.

(e) And sometimes on other days.

(f) The certificate comes direct to the Accountant-General; it does not go to the Chancery Office of the Bank. The Accountant-General signs a notification addressed to the Chief Accountant, containing the amount and description of the stock accepted, and the title of the cause or account to which it is to be placed, as in the case of Government Stock, and transmits such notification to the Bank Chancery Office.

On the order being taken by the solicitor to the Accountant-General's Office, (a) a certificate (usually termed a direction) similar to that before-mentioned as to cash is prepared, authorizing such transfer of the stock mentioned in such order, *which it is believed is (b) now signed by the Accountant-General's Chief Clerk,** and the transfer of such stock into the name of William Russell, Esq., Accountant-General of the Court of Chancery (c), is then made in the usual manner in the stock book at the Bank, and the stock is added to any previous amount of like stock in his name transferred into Court by the suitors. (d) The direction for such transfer is then taken to the Chancery Office in the Bank, where the amount of stock so transferred is entered in the books kept there to the credit of the particular cause or matter mentioned in the direction, and a receipt is issued, and the subsequent proceedings in the Accountant-General's Office are similar to those before-mentioned on paying the cash into Court.

The Accountant-General attends at the Bank of England (e) every Tuesday and Friday, when he accepts all stock transferred into his name, and signs his acceptance in the stock book, and such acceptance is treated as a declaration of trust, that the stock is subject to the orders of the Court of Chancery, in accordance with the Act of 12 Geo. 1. c. 32. and the 14th Rule of the 1st of the Consolidated Orders of the Court of Chancery.

Where any securities so transferred consist of stock of any company, a similar declaration of trust is, pursuant to the same Act, similarly made in the company's books, and a certificate (f) thereof is given to the Accountant-General by the proper officer of such company, and entered in the Chancery Department in the Bank to the account of the particular cause mentioned in the direction for transfer, so that one of the cashiers of the Bank may receive the dividends thereon.

(15.) In the return (stated at p. 109 of the Report of 1860 of the Concentration of Courts Commission) of the stock and securities in Court on 1st October in each of the years from 1854 to 1859, there appears “ Notes, bills, &c., 27,188*l*. 2*s*. 10*d*., and mortgages, 4,732*l*. 1*s*. 8*d*.; and at p. 145 of the Report of the Committee on Fees in 1848, the same appear to have been then in Court, and how long anterior to that period they have been in Court is not known. There are also in the same return, “ Globe Insurance Shares,” and “ Westminster Chartered Gas Light Company's Shares.”

(16.) The Act of 12 Geo. 1. c. 32. directs that all mortgages and transferable securities then in the name of any of the Masters or Usher, either singly by themselves or jointly with others, in trust for the suitors, should be assigned and transferred to the Accountant-General, and that all mortgages and transferable securities to be thereafter taken by the directions of the Court for the benefit of any of the suitors, should if appointed to be taken in the name of any officer of the Court, be taken in the name of the Accountant-General, and that in all such assignments and transfers to the Accountant-General, as also in all such other transferable securities to be thereafter taken in his name, the particular trust should be specified in the assignment, transfer, or security itself; and that on the death or removal of any Accountant-General all mortgages and transferable securities vested in him at the time of such his death or removal in trust for the suitors of the Court should vest in succeeding Accountant-General without any assignment or transfer whatever.

It is not known that any mortgages have of recent times been taken in the name of and so as to be legally vested in the Accountant-General, or whether the mortgages to be taken under the Act of 23 & 24 Vict. c. 38. and Order stated *infra* (20) are to be in his name.

3. Depositing Exchequer Bills and Bonds and miscellaneous Effects of Suitors.

(17.) Exchequer Bills or Bonds are deposited in the Bank under directions issued in a similar manner, and are placed to the credit of the cause mentioned in such direction, but no declaration of trust is requisite, and the (g) receipt of the cashier is given in a similar manner to that before mentioned with respect to cash and stock; and by the 13th Rule of the 1st Consolidated Orders of the Court of Chancery, authority is given for the investment, without any further order, of any monies arising from any such bills (h) paid off in other like bills. The interest of such bills is received by one of the cashiers of the Bank, who places it to the credit of the Accountant-General, and in the Chancery Office at the Bank the amount of such interest is placed to the account to which the Exchequer Bills on which such interest arises are placed.

(18.) Other effects, such as foreign securities, and railway and dock bonds, are ordered to be placed in a labelled box, in the presence of the solicitors of the parties interested, and the box to be deposited; and the box is so deposited in the Bank, under directions issued in a similar manner, and a memorandum of such deposit is placed in the books of the Chancery Office at the Bank, to the credit of the cause mentioned in the direction; and the receipt is given by the cashier of the Bank for

Schedule No. 4
Certificate of
transfer of
stock into
Court.

* It is believed this certificate is the only description of certificate issued out of the office that is not signed by the Accountant-General.

Observations by the Accountant-General.

Office in the Bank, and in the evening the various stock receipts and sale certificates are sent to the Accountant-General's Office.

(22.) Previously to each dividend becoming due a list is made out in the Chancery Accountant-General's Office, in the form of a journal entry, containing the titles of the several stock accounts on which the particular kind of stock is standing, the amount remaining upon each, and the dividend that will become due thereon, less income tax. The accounts on which the stock has been altered since the last dividend are marked, and the list sent, sheet by sheet, to the Bank of England; it is there copied, the stock and dividend upon each altered account checked, the castings of both stock and dividend examined, and the list returned to the Chancery Accountant-General's Office. From these sheets the dividends are posted to the several stock accounts in the ledgers kept in the Chancery Office at the Bank, and also in the ledgers kept at the Chancery Accountant-General's Office. The total of the several amounts of dividends so posted is made to agree with the amount so received in one sum for the Accountant-General by the Bank Cashier.

On the 1st of October 1860 there were 17,230 such stock accounts.

5. *Paying out of Court of Principal Money.*

(23.) The authority for making any payment of money out of Court is an order made on the application of the parties interested, and drawn up and passed by one of the 11 Registrars of the Court. This order, where the fund does not exceed 300*l.*, may be applied for by summons at Chambers, but where the amount exceeds that sum there must be a petition to the Court for the purpose. The cost of obtaining each order on summons is from 5*l.* to 8*l.*, and on petition from 10*l.* to 20*l.*, and frequently more. Such order, when completed, is not transmitted by the Registrar to the Accountant-General's Office, but remains in the Registrar's Office until called for by the solicitor, who then lodges it at the Accountant-General's Office, where a certificate from the Accountant-General to the Bank (commonly called a "draft" or "cheque," but in reality not a cheque in the legal or ordinary sense) (a) is prepared in the following form, and written on cheque paper, and may be obtained on the second day following the day it is bespoken :—

(a) It is called a "note or cheque" in the 15 & 16 Vict. c. 18, s. 36.

BANK OF ENGLAND.	R. 4020.	To the Gov ^r . & Company of the Bank of England.	Y. v. H. The Lodge Lane Account.
	You are, pursuant to an Order dated 23rd July 1860, and an Affidavit filed 6th March 1861, to pay to the Defendant R. G. and the Plaintiffs J. Y. and J. D. W., as Trustees, Two hundred and seventy-five pounds eighteen shillings and fourpence, Provided that if this Note is not paid in a month after date* then the same to be void. Dated this 4 day of Feb. 1861.		
	£275 18s. 4d.	R. Disraeli.	W. Russell, A.G.
	Reg ^r .		
	(Indorsement.)		
	E. W. F., Atty.		
	(Initial of Chief Clerk)	B. L.	
	(Signature of Attorney)	E. W. F.	

Such part of this Cheque as is not under-scored is lithographed.

(b) (c) This certificate, and therefore necessarily the filing, have been discontinued since 1853.

When the Accountant-General signs this certificate (or draft or cheque) he also places his initials in the order opposite the amount directed to be paid. He at the same time signs a (b) certificate pursuant to Act of 12 Geo. 1. c. 32. of having drawn such draft or cheque, and the certificate is filed in the Chancery Report Office. The total number of such drafts or cheques signed daily by the Accountant-General (including interest drafts and drafts in favour of the Broker) is computed to average between 200 and 300.

Schedule No. 6. Certificate on payment of money out of Court.

After the order has been initialed (c) and the certificate has been signed, the order is placed in a pigeon-hole in the divisional office to which the order belongs, for the convenience of the several parties who have money to receive under it, and is eventually taken away by the solicitor to whom it belongs. But the pigeon-holes are accessible to the public, and complaints are frequent of orders having been improperly taken away.

The drafts are kept in iron safes in the respective divisions of the office until applied for, the 1st, 2nd, and 3rd Clerks (d) only of each division having the custody of the key, and upon delivery out of any draft a receipt for the same is signed by the person to whom it is delivered in a book kept for the purpose.

(24.) To enable the person named in the order to receive this draft, if he cannot attend personally, he must give a power of attorney, of which more hereafter, but if he attends personally he must, on (e) the first occasion of his attending to receive a draft, be accompanied by his solicitor, who has to identify him, and he then signs, in the book kept for the purpose, a receipt for such draft, to the following effect :—

" Y. v. H.
" Received of Wm. Russell, Esq., Accountant-General of the Court of Chancery, a draft or note, dated this 4th day of February 1861, for the sum of 275*l.* 18s. 4*d.*, payable to
" dated 23rd July 1860." pursuant to an order

This receipt is witnessed on such first attendance by the solicitor, but subsequently (f) by one of the Accountant-General's Clerks. The draft

(d) The 1st or 2nd Clerk only of each division has the custody of the key.

(e) If he be a solicitor, and paid as such, one identification would be sufficient.

(f) Not unless the "subsequently" refers to drafts drawn out of the same account, and even then, unless it be under the same order, or there is something more than similarity of name to show that it is the same person, he would have to be identified again.

* The limitation of time for payment is prescribed by Act of 12 Geo. 1. c. 32.

Observations by the Accountant-General.

No drafts exceeded 1,000*l.*, and the total amount of the drafts not exceeding 50*l.* may be estimated as not having on that day exceeded 4,800*l.*

(28.) It may be mentioned, with respect to the dividends on Bank Stock in Court, that whenever any declared half-yearly dividend exceeds 3*l.* 10*s.* per Cent., the drafts for such payments are not delivered out by the Accountant-General until the Lord Chancellor has issued an order authorizing him so to do; and also that, by a General Order of the Lord Chancellor (*vide* Consolidated Chancery Orders, p. 229), where any annuity, maintenance, or other annual payment is directed to be paid or made out of interest or dividends of stock in Court, the Accountant-General is to draw for the same, less the amount of the current rate of income tax. (a)

7. Powers of Attorney for Receipt of Principal Money, or Interest, or Dividends out of Court.

(29.) When a person to whom payment of money, or interest and dividends, has been ordered to be paid, cannot or does not wish to attend at the Accountant-General's Office to receive the certificate from the Accountant-General to the Bank to pay him the sum therein mentioned (commonly called the Accountant-General's "draft" or "cheque"), such person is required by the Accountant-General to give a power of attorney to some other person to attend and receive such draft, and such power is prepared in the Accountant-General's Office. For this purpose a request, which may be obtained at the Accountant-General's Office, must be signed by the solicitor of the person to whom any such payment is ordered to be made.

This request, with the order directing the payment, must be left at the Accountant-General's Office, and the power, with the form of the required affidavit of verification, will be made out, and may generally be obtained on the second day following. It must be attested by two witnesses, who must subscribe their names, residences, and occupations, and one of them must be a housekeeper, and be so described, and one of them must make the affidavit; (b) but he is not required to identify the person executing the power with the person named in the order.

The fee for preparing power of attorney with affidavit, exclusive of the Inland Revenue stamp duty, is 3*s.*, which is collected by means of a fee stamp, and is paid into the Suitsors' Fee Fund. The Inland Revenue stamp duties on the powers are as follows:—

	£	s.
For receipt of any sum or gross sums not exceeding 20 <i>l.</i> , or		
periodical payments not exceeding the annual sum of 10 <i>l.</i>	-	0 5
For receipt of dividends exceeding 10 <i>l.</i> per annum	-	1 0
For receipt of any sum or sums exceeding 20 <i>l.</i>	-	1 10

The number of powers of attorney issued by the Accountant-General in 1859 was,—

Impressed with 5 <i>s.</i> stamp	-	-	-	-	-	-	294
" 20 <i>s.</i> stamp	-	-	-	-	-	-	856
" 30 <i>s.</i> stamp	-	-	-	-	-	-	2,533
Total	-	-	-	-	-	-	3,683

Schedule No. 7.
Power of attorney for receipt of certificate (draft or cheque) for the Bank to pay money out of Court, and request for the same.

(c) The correct amount appears to be 4,729*l.*

(d) 10,805*l.* 19*s.*

yielding to the Consolidated Fund, (c) 4,300*l.*, and to the Suitsors' Fee Fund, 552*l.* 9*s.*, and the solicitor's charges attending the procuring the power of attorney, and getting it executed, average 1*l.* 10*s.* each, thus causing a total expense to the suitsors of (d) 10,376*l.* for powers of attorney alone.

(30.) If dividends on a larger amount of stock than that mentioned in the power, or any additional sum or sums of money be subsequently ordered to be paid to the person by whom the power is given, a fresh power is requisite, and such changes are frequent. By the Act of 16 & 17 Vict. c. 98. s. 7. the Lord Chancellor is authorized to empower and direct the Accountant-General to act on powers of attorney granted by any person, which may authorize the attorney to receive not only the sum mentioned in the power but all sums which may subsequently be ordered to be paid to the same person; but it is believed that no general orders have been issued by the Lord Chancellor for carrying that enactment into effect.

(31.) Whenever there are many small sums, each of them not exceeding 10*l.*, payable to creditors or legatees, in order to save the expense of powers of attorney (upon each of which the stamp duty would be 5*s.*, and with the solicitor's fees for procuring it, and getting it executed, would cost not less than 1*l.*, however small the amount might be), the Court, on the written request of the persons to whom the same are payable, will add to the order for distribution a direction that such amounts as do not exceed 10*l.* be paid to the solicitor having the conduct of the cause, on his undertaking duly to apply the same.

8.—Transferring Stock out of Court, or selling the same and paying out the Money arising by the Sale.

(32.) The authority for making any transfer out of Court of stock, or for sale thereof, is an order made by one of the Judges of the Court, on the application of parties interested, and drawn up and passed by one of the 11 Registrars of the Court, in like manner as orders for payment of cash.

This order is taken by the solicitor from the Registrar's Office, where it remains until called for, to one of the Junior Clerks to the Registrars, from whom is bespoken a certificate (usually termed a "direction") either for sale or transfer, as the order may direct.

This "direction" is to the following effect, following so much of the order as relates to the sale or transfer :—

"To the Accountant-General of the } Jones v. Williams.
Court of Chancery.

"Pursuant to an Order dated One thousand pounds
"Bank Three Pounds per Cent. Annuities, standing in your name in
"trust in this cause, are to be transferred to the plaintiff David Jones
"[(or) are to be sold]."

"P. W. ROGERS, Regr."

(33.) When the Registrar signs the "direction," he also signs a note thereof in the margin of the order, so that he may not inadvertently issue a second direction for the same stock.

The "direction" and order are taken by the solicitor from the Registrar's Office, where they remain until called for, to the Accountant-General's Office; and if the "direction" is for a transfer and not a sale, a note must be subscribed and signed by the solicitor, stating the address and quality of the person to whom the transfer is to be made. The Accountant-General will thereupon make the transfer or sale in the manner before mentioned, as described by Mr. Mortimer and Mr. Parkinson in their evidence before the Committee on Fees in 1848 (pages 46, 55, and 138). For a sale the usual brokerage is charged, but none is charged on a transfer, and the Registrar's directions are retained by the Bank as the authority for permitting the sale or transfer. Afterwards a certificate of the transfer or sale is prepared and signed by the Accountant-General, and is filed by him in the Report Office, whence an office copy may be obtained if required. (a) The time occupied in effecting a sale or transfer from the day of bespeaking the Registrar's "direction" to the day of obtaining an office copy of the certificate of such sale or transfer is not less than one week, and generally more, and the solicitor's fees in respect of such sale or transfer are 13s. 4d.

(34.) It is the practice to sell and purchase every separate sum of stock directed to be sold or purchased, and consequently both sales and purchases usually take place on the same day in the open market, and the full brokerage of one-eighth per cent. is charged on each transaction, and on each transaction the difference of price between buying and selling (one-eighth), usually called "the turn of the market," is against the suitor, whether the transaction be a sale or a purchase. A Committee of the House of Commons on Fees in Courts of Justice, in their Report of the 25th July 1849 (Parliamentary Paper, 559), recommended "that the system of brokerage on suitors' funds be discontinued, and that only the balance of the stock required to be bought or sold on each day be bought or sold by the broker, and that the one-eighth per cent. on the funds transferred, thereby saved to the suitor, and which, but for this alteration, would have been actually bought and sold, should be paid to the Suitors' Fee Fund, for the benefit of the suitors;" (b) but this recommendation has not been adopted,

9.—Delivery out of Court of Exchequer Bills and Bonds and other miscellaneous Effects of Suitors.

(35.) Exchequer Bills and Bonds, and also boxes containing other miscellaneous effects belonging to suitors, are delivered out of Court under orders and "directions" similar to those given with respect to sale or transfer of stock. The "direction," after being signed by the Registrar, and the order, are taken by the solicitor to the Accountant-General's Office, where the direction is compared with the order and with the entry in the Accountant-General's ledger, and is then countersigned by the Accountant-General; (c) and the person to whom such delivery is directed thereupon obtains the direction and order from the Accountant-General's Office, and he leaves at the Bank the "direction" as the authority for delivering up the bills, bonds, or boxes, as the case may be, which are then delivered to him on his being identified; and a certificate of such delivery is signed by the Accountant-General, and is filed, as in the case of sale or transfer of stock. If the person named cannot attend, it is believed a power of attorney is requisite. The time occupied in effecting such delivery from the day of bespeaking the Registrar's directions to the day of obtaining the office copy of the Accountant-General's certificate of such delivery is not less than a week, and the solicitor's fees attending the transactions are 13s. 4d.

10.—Carrying over Stock or Cash in Court.

(36.) When any stock or cash in Court is ordered to be "carried over" (that is, transferred) from one cause to another cause, or from one account in a cause to a separate account in the same cause, the order directing such carrying over is taken to the Accountant-General's Office by the solicitor, who bespeaks the "carrying over," for which no written request is necessary. The Accountant-General signs "a direction" to the Bank for the stock or cash mentioned in the order to be carried over as therein mentioned, and the Bank, as soon as the "carrying over" has been completed, sends a certificate thereof to the Accountant-General, who thereupon makes a similar "carrying over" in his ledgers, and signs another certificate that such carrying over has been effected. This certificate is annexed to the Bank certificate, and both are filed in the Report Office, whence an office copy can be obtained if required.

The amount of stock and cash so carried over in 1859 was 2,424,001l. 7s. 9d.

11.—Affidavits of Residue and Calculation of Interest.

(37.) By the 33rd of the Chancery Consolidated Orders, Rule 3, it is ordered, "That in the case of residues or shares of residue of money, stocks, funds, or securities [but not of interest or dividends] remaining

Observations by the Accountant-General.

(a) The time ordinarily occupied in effecting a sale or transfer from the time of bespeaking it at the Accountant-General's Office varies from three to six days, according to the day on which it is bespoken. If the papers be left on Saturday, Monday, or Tuesday, the transaction is completed on the Friday following; if bespoken on Wednesday, Thursday, or Friday, it is done on the Tuesday following. The obtaining the office copy of the certificate from the Report Office is not the completion of the sale or transfer; it is complete when the Accountant-General signs the transfer book at the Bank of England. The stock in the case of a transfer is then in the name of the party to whom it is to be transferred, and in the case of a sale the transaction is also complete, the money arising therefrom having been previously placed to the Accountant-General's credit. The office copy of the certificate is not made until it is bespoken, and is very seldom made at all.

(b) Although the recommendation has not been adopted, the subject has undergone a good deal of consideration, and a Bill containing clauses embodying a plan for effecting the objects which the Committee on Fees had in view was introduced into the House of Lords in 1853, but the clauses were rejected by the Select Committee to whom the Bill was referred. A statement of the objections to adopting such a plan may be brought before the Commissioners.

(c) The person to whom the delivery is to be made attends at the Accountant-General's Office, and signs a receipt for the "direction." He must be identified as in the case of receiving a cheque, and he has to endorse the "direction" before the article mentioned in it is delivered to him at the Bank. If he cannot attend personally, he must give a power of attorney to some one else to receive from the Accountant-General, and give a receipt to him for the "direction," and to receive the article mentioned in it from the Bank. The time occupied in the Accountant-General's Office from the time the order and direction are left until the latter is ready for the party named therein to receive it is three days; the "direction" in the interval being sent to the Bank Chancery Office for examination.

Schedule No. 8.
Certificate of
the sale of
stock and of the
transfer thereof
out of Court.

Schedule No. 8.
Certificate of
carrying over.

Observations by the Accountant-General.

"after a portion directed [by any order] to be applied for particular purposes, the amount of which cannot be ascertained at the date of such order, the amount of such residues or shares of residues shall be verified by affidavit." So that, for example, where 1,000*l.* stock is in Court, and an order is made directing a sale of so much thereof as will raise sufficient to pay costs when taxed, and a transfer of the residue after such sale, a direction from the Registrar is first required for the sale, and then another direction is subsequently required for the transfer of the residue, but such residue, before the Registrar can issue his direction for its transfer, must be verified by an affidavit. This affidavit has to be made by the solicitor or his clerk, and is necessarily founded altogether on information obtained from the Accountant-General's Office.

Whenever any principal money is directed to be paid into Court *with interest*, at a specified rate from a particular day to the time of payment, the amount of interest, though of course checked in the Accountant-General's Office, must be verified by a similar affidavit before the Accountant-General will give a "direction" for payment in.* These affidavits verifying residue, and affidavits verifying interest, have been estimated to cost the suitors about 5,000*l.* a year.†

IV.—MODE OF KEEPING THE ACCOUNTS BETWEEN THE ACCOUNTANT-GENERAL AND THE BANK OF ENGLAND.

(38.) The initiative of all financial transactions between the Accountant-General's Office and the Chancery Office at the Bank of England is with the former; the Accountant-General issues a certificate, usually termed a "direction," to the Bank to permit the payment of cash or the transfer of stock into Court, and issues certificates (drafts or cheques) to the Bank, telling it the payments out of Court it is to make, and to whom by name. Although the Accountant-General has the direction of the Registrar for the sale or transfer of stock out of Court, he requires also the order, of which the direction is an abstract, to be left with him. (a) The first entry made of every payment sale, or transfer is in the ledger kept in the Chancery Office at the Bank, (b) and every evening there is sent to the Accountant-General an account (or "mail") of all cash paid into Court, and of all cash paid out in a form technically called "slips." This account is usually entered or "posted" on the following morning to the different accounts in the Accountant-General's ledgers, and the entries are subsequently checked with the receipts and certificates of such transfers and sales furnished to him direct by the Bank, and of such payments also furnished to him by the Bank, but though the medium of the suitors.

(a) The entries of the day's receipts and payments are not made at the Bank Chancery Office until the next day, when the cash books, drafts, and directions are sent in from the General Cash Book Office.

(b) This account is sent from the General Cash Book Office, not from the Chancery Office.

(c) The correct account of these proceedings will be found in the Accountant-General's Statement, Appendix No. III, par. 38, page 38.

(c) On every Monday and Thursday morning the Principal Clerk of the Accountant-General is furnished by each of the four divisions of the Accountant-General's Office, and by each of the four corresponding divisions of the Chancery Office at the Bank, with information of the amount of cash and stock respectively paid and transferred into and out of the different accounts in each of such divisions during the preceding three working days. The Principal Clerk is at the same time furnished, by one of the cashiers of the Bank, with information of the amount of cash paid into and out of the account of the Accountant-General during the same period, and of the amount of the cash balance on the Accountant-General's account at the termination of that period, and it is his duty to compare them all, and to see that they all agree.

The number of suitors' accounts on the 1st of October 1860 in the Accountant-General's Office, and also consequently in the Chancery Office at the Bank, was 22,757, of which 17,230 were stock and cash accounts, and the remaining 5,527 accounts were cash accounts only.

(39.) Each dividend, less the income tax, payable on the aggregate amount of the several descriptions of stock on such 22,757 accounts standing in the name of the Accountant-General in the books of the Stock Office of the Bank of England, or in the books of any other company, is paid in one entire sum (under a power of attorney from the Accountant-General) to one of the cashiers of the Bank, and is by him paid into the Bank to the cash account of the Accountant-General. On the 1st October 1860 the aggregate amount of the different stocks standing in the name of the Accountant-General was 52,065,429*l.* 14*s.* 9*d.*‡

(d) A draft for the first payment of interest or dividends has to be bespoken by leaving the order, in the same way as a draft for the payment of principal money. After the first payment it becomes a regular interest draft, and it is drawn by anticipation in the way described in the Accountant-General's Statement, par. 30, page 37.

(e) When this recent practice was introduced as to the October dividend drafts, the Lord Chancellor sanctioned the non-attendance of the Accountant-General on those three days, no other business being then transacted. The Accountant-General has not given any express authority to the Bank, but the Bank adopts such corrections so made, which are, however, rarely of any importance.

The dividends are received by the cashier of the Bank on the earliest day, and the Accountant-General on the following day commences delivering to the suitors (d) drafts for such dividends as have been directed by any order to be paid to them. These drafts, to avoid delay, are drawn by the Accountant-General's Clerks, and are signed by him in anticipation of the dividends. From about the 20th August to the 29th of October in every year the Accountant-General's Office is closed to the public, pursuant to an order issued by the Lord Chancellor annually, and all transactions therein are suspended, except that, by a practice first introduced in 1853, during three days in October the office is open for payment of the October dividends. (e) The Accountant-General does not personally attend during such three days, and any error in the amount of any draft is corrected by one of the Clerks, and the correction is initiated by the Principal Clerk, acting, it is understood, under a general authority from the Accountant-General, and the Bank pay the draft as corrected.

* Vide Mr. Parkinson's Evidence in Report of Committee on Fees in 1843, pp. 55 and 138.

† The Orders before referred to for dealing with the funds of the Suitors are those of a simple nature, but such Orders are frequently of a complicated description, as will appear by referring to the Order in Schedule No. 12.

‡ The particulars hereof for 1859 will be found in the Report of 1860 on the Concentration of the Courts of Justice, p. 109.

(40.) During the period in which the Accountant-General's Office is closed to the public, in each year for the Long Vacation, the balances of stock and cash on each account are copied into a book, termed the balance-book, in each division of the Accountant-General's Office, and also into a similar book in each division of the Chancery Office at the Bank; and these books are compared, and the annual balance is struck on the 1st of October in each year, (a) and a summary of the annual balance is sent to the Lord Chancellor by the Accountant-General and also by the Chief Accountant at the Bank of England.

Observations by the Accountant-General.

(a) A copy of the annual balance book used formerly to be made out for the Lord Chancellor, but it has not been done for many years. The summary made out by the Bank is sent to the Accountant-General and kept by him.

Schedule No. 9.
Transcript of a
suitors' account
in Court.

V.—SUITORS' ACCOUNTS AND THE TRANSCRIPTS THEREOF.
(41.) Every suitor in each cause or matter is entitled to have furnished to him by the Accountant-General, in a book called a transcript-book (being a book similar to a Banker's pass-book), a copy of the account in the Accountant-General's books relating to the funds in such cause or matter on payment of 2s. for each opening of the book. The accounts of cash and stock of suitors are stated in separate columns, and the separate balances of each brought out. The account is from time to time, when required, made up in such transcript-books by the addition of subsequent items, on payment of 2s. for each further opening.

VI.—PROVISIONS RESPECTING UNCLAIMED FUNDS.

(42.) The Suitors' further Relief Act of 16 & 17 Vict. c. 98. s. 1. (b) (passed in August 1853), provided that, within nine months after the passing thereof, an investigation should be made into the several accounts standing in the name of the said Accountant-General to the credit of any cause or matter, the dividends of which shall not have been dealt with for 15 years or upwards prior to such time, and if and when he shall be of opinion that it is not probable that any claim will be made for the same, to make orders for the appropriation of the future dividends to accrue due on such stock, or such part of such dividends as he shall be of opinion may safely and properly be so appropriated, as the same shall accrue, for the benefit of the suitors of the said Court, and for the carrying the same over to the credit of an account to be entitled "The Suitors' Unclaimed Dividend Account," and for the carrying, from time to time, such part of the cash standing to the last-mentioned account as he may think fit over to the credit of the account in the books of the said Accountant-General called "The Suitors' Fee Fund Account," and such dividends, when so carried over, shall thereupon become part of the fund standing to such account.

The second section of the same Act also directed that a similar investigation should be made at the expiration of every five years from such first investigation, and that a similar course be pursued consequential thereon.

Under this Act the first investigation was accordingly made as to the stock standing on 1st May 1854, on accounts not dealt with for 15 years, and in a return made to the House of Commons in July 1854 it appears that the number of such accounts was 566, and the amount of such stock 256,176*l.* 2*s.* 8*d.* (the total suitors' stock then in Court being 46,000,000*l.*), and in the following year (1855) the title of such accounts was printed and exhibited in the Chancery Offices, which resulted in many suitors coming forward and preferring dormant claims to the larger portion of the funds on such accounts, and successfully prosecuting and establishing the same; but it is believed that no orders have been made for the appropriation of any portion of the dividends of the stocks on such accounts that have remained unclaimed, as authorized by the same Act.

The first quinquennial investigation was made during last year (1860), and the title of such accounts continues to be exhibited in the Chancery Offices, but the amount on such accounts is not known, and inasmuch as, under a General Order of the Court, the Accountant-General invests the dividends of stock purchased under the Infant Legacy Act of 36 Geo. 3. c. 52. s. 32. without special order for the purpose, and (as is believed) considers the accounts on which such stock is standing as having by such operation been dealt with, the titles of such accounts do not appear in this list, and, for the same reason, (c) the accounts of stock transferred into Court under the Trustee Relief Act of 1847 will not appear in any future list.

(43.) The provisions of this Suitors' further Relief Act are confined to stock, and no similar list of the unclaimed cash accounts has yet been been made public. The amount of suitors' unclaimed cash in Court was unknown until the following return was obtained, in 1850, by the present Vice-Chancellor, Sir W. P. Wood:—

RETURN from the ACCOUNTANT-GENERAL of the HIGH COURT OF CHANCERY, showing the Amount of CASH standing to different Accounts in his Name, and not dealt with during the periods of ten, twenty-five, and fifty years respectively prior to the 1st day of August, 1850; and the Amount of Stock or other Securities standing to different Accounts in his Name, the dividends on which have not been dealt with during the same periods respectively.

	Number of Accounts.		Cash.		Stock.	
	Cash.	Stock.				
			£ s. d.		£ s. d.	
Ten years - - -	1,220	364	95,387	19 5	136,140	11 3
Twenty-five years - - -	1,056	237	71,582	7 1	112,359	6 1
Fifty years - - -	975	161	80,524	19 4	66,044	1 11
Total -	3,251	762	247,495	5 10	314,543	19 3

(b) The authorization given to the Lord Chancellor to cause an investigation to be made was permissive. Lord Chancellor Cranworth was of opinion that no complete investigation could be made without notice to all those concerned. It being not only difficult, but in many cases impracticable, even to trace the parties interested, the Lord Chancellor determined upon the course which was adopted on the first occasion, and has been a second time resorted to by the present Lord Chancellor, of publishing lists of the titles of the causes, matters, and accounts coming within the terms of the section, so as to give general notice and opportunity for application. The second list, containing not only cases peculiar to itself, but also those of the first which still remained undisposed of, is yet in active operation, and there is not any ground for determining that all the other cases named may not also in time become the subjects of application.

(c) Not only so, but the sums of cash paid in under the same Acts are invested, and the dividends as they arise. Also (under the General Order of 3rd June 1853), when investments of interest on stock purchased are directed by an order of the Court, the Accountant-General continues, after the first investment has been bespoken, to invest the interest as it arises, if the solicitor intimates, on the request for the first investment, his wish that it should be so done.

Observations by the Accountant-General.

SUMMARY.

						Number of Accounts.	Cash and Stock.
							£ s. d.
Cash	-	-	-	-	-	3,251	247,495 5 10
Stock	-	-	-	-	-	762	314,543 19 3
Grand Total						4,013	562,039 5 1

This return did not include the dividends that had accrued on the stock, but it was stated at the time that it was about the same amount as the cash, being together about 500,000*l.*, or one-fifth of the suitors' cash then in Court, amounting to two millions and a half.

VII.—APPEAL DEPOSIT ACCOUNT.

(44.) Every suitor who desires that his cause may be reheard, either by the Judge who has already heard it or by the Appellate Court in Chancery, must deposit 20*l.* with the Senior Registrar of the Court. Previously to 1852, every deposit remained in the custody of the Senior Registrar until repayment was demanded by the party to whom, on such rehearing, it was ordered to be paid, when the same was repaid, less 5 per cent., retained by the Registrar for his trouble.

(45.) By section 41 of the Suitors' Relief Act of 1852, before referred to, it was enacted that the Senior Registrar "shall, once in every three months, pay all sums so received by him into the Bank of England, to the credit of the Accountant-General of the said Court (the amount so received and paid to such Registrar to be verified by affidavit), and the several sums, when paid, shall be from time to time placed to an account, to be entitled 'The Appeal Deposit Account,' and the monies which shall, from time to time, be standing to such account, shall be paid and applied as the Court of Chancery shall, from time to time, in that behalf order and direct."

(46.) Previously to the passing of this Act, many parties to whom such deposits had been ordered to be repaid had not applied for payment, and a large fund had accumulated in the hands of the Senior Registrar, which it is understood he had, from time to time, invested in stock, and on the passing of this Act the then Senior Registrar transferred into the name of the Accountant-General, to "The Appeal Deposit Account," stock to the amount (it is believed) of 10,000*l.*; he also paid into the same account a sum of cash, the aggregate amount of the current deposits. The stock probably still remains on this account, as well as the dividends that have accrued thereon since 1852; and no order, it is believed, has been made for the application thereof.

(47.) The Senior Registrar, previously to 1852, kept an account containing the title of the cause and the date of the receipt, as well as of the payment of each deposit, and the particular deposits that were unpaid could at any time be readily ascertained. Since 1852, the Senior Registrar has continued such account, of course as to the receipts only, and the amount of such receipts during each three months being paid in one aggregate sum into the Bank, to the credit of the Accountant-General, to "The Appeal Deposit Account," each deposit is not distinguished in such account. (a) The order for the payment out of Court of each of these deposits directs the same to be paid to the suitor or his solicitor, and the same is paid out of the aggregate amount on "The Appeal Deposit Account," in like manner as principal money is paid out of Court, as stated, *ante*, in paragraph (23).

VIII.—ANNUAL AMOUNT OF TRANSACTIONS IN THE ACCOUNTANT-GENERAL'S OFFICE.

(48.) The following is the amount of business transacted in the Accountant-General's Office for each of the years ending 1st October 1858, 1859, and 1860 :—

	1858.		1859.		1860.	
	£	s. d.	£	s. d.	£	s. d.
1. Amount of Cash paid into Court - - - - -	7,952,502	6 2	8,577,896	3 6	7,817,627	3 1*
2. Amount of Cash paid out of Court - - - - -	7,448,803	19 6	8,222,155	2 3	8,159,550	18 2*
3. †Amount of Stock transferred into Court - - - - -	5,407,650	17 2	6,737,337	11 7	6,993,285	0 6
4. †Amount of Stock transferred out of Court - - - - -	5,796,915	4 9	5,962,880	10 1	6,328,081	17 7
4 b. Total number of Certificates issued by the Registrar for sale, or transfer, or delivery of Stock or other securities - - - - -	—		2,983		2,783	
5. Total number of drafts (or cheques) signed - - - - -	40,649		42,051		40,046	
6. Total amount of Cash Securities and other effects carried over (i.e. written off one account and written on to another) in the Accountant-General's books - - - - -	2,451,584	18 8	2,424,001	7 9	1,888,120	9 11
7. Total number of Powers of Attorney issued - - - - -	3,187		3,683		3,244	
8. Total number of Accounts - - - - -	21,412		22,174		22,757	
9. Amount collected by stamps in respect of the following fees, viz. :—						
I. For preparing powers of attorney, with affidavit, exclusive of stamp duty, at 3 <i>s.</i> each - - - - -						
II. Upon every application for a search, 5 <i>s.</i> - - - - -						
III. For transcript of accounts, each opening consisting of Dr. and Cr. sides of the account, 2 <i>s.</i> - - - - -						
	645	16 0	739	8 3	684	6 0

* The amount that passed through the General Post Office by money orders during 1860 was 13 Millions, on which there was levied a commission of 117,829*l.*, or about 1*s.* per cent.

† Of these two amounts, it is estimated that about one-half consists of stock purchased and sold (the remainder being transferred out to the parties entitled).

[Of the amounts included in the first line of the above table, a large portion consists of cash arising from sales of stock, and, of those in the second line, a large portion is cash laid out in the purchase of stock. No mention is made in the latter note of stock transferred in by parties included in the third line of the table.—*Note by the Accountant-General.*]

PART II.

Observations by the Accountant-General.

BUSINESS DONE FOR THE PUBLIC.

I.—INTRODUCTORY STATEMENT.

(49.) The Judicial Establishments of this Kingdom, until within the last 30 years, were almost entirely maintained at the expense of the suitors. Fees and emoluments were paid by the suitor to the officer, and the amount of such of them as belonged to the Judge were accounted for to him, the officer retaining the remainder for his own use. Under this system the income of each Judge and officer more or less fluctuated, according to the amount and nature of the business periodically transacted.

At various periods during the last 30 years Acts of Parliament have been passed remodelling the Court of Chancery and most of the other Courts of Justice, and the Judges of the Court of Chancery and of the other Courts of Justice, as well as the officers of those Courts, are now remunerated by fixed salaries. The salaries of the Judges are charged on the Consolidated Fund, but the salaries of the officers are defrayed by the suitors.

(50.) The funds raised for the purpose of defraying the salaries of the officers of the different Courts of Justice arise chiefly from taxes under the name of fees. Fees may be defined as payments to an officer for work done, legally demandable, and are in the nature of tolls levied on the suitors at different stages of their causes, each suitor at each stage (except as to suits under 1,000*l.*) paying the same toll, without reference to the amount at issue. These fees are assessed, levied, and collected differently in the Court of Chancery and in each of the other Superior Courts, as will appear on reference to the Acts of Parliament referred to at page 59 of the Report of 1860 on the Concentration of Courts of Justice.

(51.) The fund for maintaining the establishment of the Court of Chancery arises from two sources: 1st. From profits derived from investments in stock of cash left in Court by suitors, such investments being made by authority of Parliament and at the risk of the State. 2nd. From taxes imposed on the suitors under the name of fees. This fund is also charged with the compensations payable in respect of reduced and abolished offices in the Court of Chancery. The compensations payable in respect of abolished offices in the Superior Courts of Law, and in the late Testamentary Court, are charged on the Consolidated Fund.

(52.) The profits of these investments, and the produce of these taxes, are paid into the Bank of England to the credit of the Accountant-General of the Court of Chancery; the profits being carried to the account popularly known as the "Suitors' Fund," and the taxes to an account entitled the "Suitors' Fee Fund." (a) The former account, pursuant to the Act of 59 Geo. 3. c. 27., is designated, "Account of interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery."

(a) There are two accounts, viz., "Interest arising from monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," and "Interest arising from securities purchased with surplus interest arising from securities carried to an account," &c.

II.—SUITORS' FUND.

1. *As to the Capital.*

(53.) The history of the Suitors' Fund, its origin, growth, and present condition, are fully and accurately stated in the able and lucid Report of 1860 on the Concentration of the Courts of Justice, paragraphs 29 and *seq.*

(54.) This fund is composed of two separate accounts, distinguished in that Report as Funds A. and B.; and, for the present purpose, it is sufficient to say that Fund A. is the representation, in stock, (b) of such cash of the suitors as had been left by them in Court idle and unemployed, and Fund B. is an accumulation of income derived from Fund A.

(55.) Previously to the year 1852 part of the income of Fund A. was applied, as directed by Parliament, for the benefit of the general body of suitors of the Court, as well those who had not funds in Court as those who had, but from the period of the institution of this fund to the year 1852, that is, for more than a century, the income had not been so applied to nearly its full extent, and the surplus had been annually invested and accumulated, forming Fund B. In the year 1852 all further accumulation ceased by the operation of the 15 & 16 Vict. c. 87, s. 53, intitled "An Act for the Relief of the Suitors of the High Court of Chancery," which directed the appropriation of the whole income of the Funds A. and B. for the benefit of the general body of suitors, in the manner hereafter explained. (c) The postponement until 1852 of this appropriation had the effect of causing the previous suitors to be taxed more than they need to have been if the appropriation of the whole income had taken place at an earlier period. The suitors of 1850, 1851, and 1852 were so over-taxed, to the extent of upwards of 30,000*l.* a-year.

(56.) Fund A. consisted, on 1st October 1860, of (d) 2,827,526*l.* 0*s.* 3*d.* stock standing in the name of the Accountant-General of the Court of Chancery to an account in the Chancery Office at the Bank, intitled "Account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery."

It appears at p. 108 of the Report of 1860, just referred to, that, on the 1st October 1859, the stock then consisted of 1,423,364*l.* 19*s.* 11*d.* Consols, and 1,189,995*l.* 4*s.* 9*d.* Reduced Annuities, but it does not appear whether the 214,165*l.* 6*s.* stock since purchased was in (e) Consols

(b) Of portions of such cash.

(c) One object (the principal one at the commencement) of forming Fund B. was the guaranteeing the sufficiency of Fund A. to meet at any time the demands of the suitors.

(d) The correct amount is 2,827,525*l.* 10*s.* 8*d.*

(e) It was Reduced Annuities only.

Observations by the Accountant-General.

(a) The correct amount is 1,291,629*l.* 10*s.* 5*d.*

(b) It should be 24*l.* 6*s.* New Three per Cent. Annuities, and there was besides 4*s.* 11*d.* East India Stock.

(c) A large portion of it was already adjudged and cheques drawn for some of it, waiting only for application. Whether the suitors would receive any interest in respect of any part of the balance referred to would depend upon two questions,—Whether there was any authority to invest for the benefit of any particular cause or account? And whether, and when, such authority would be brought under the notice of the Accountant-General? No doubt portions of the cash balance would be invested at the opening of the office at the end of October; some requested by solicitors under particular Orders of the Court, and some without request under General Orders.

(d) This statement is in error as regards the years 1848, '49, '50, '51, '52, '55, '56, '57, '58, as considerably overstating the amount; it is also in error as to the present year. A list of the balances for these years could, if necessary, be furnished.

(e) This is not correct as regards the year 1845; the largest amount received for deposits was in 1846, and the weekly balances in the latter year corresponded with the statement in the text.

(f) Whenever, upon observing the state of the weekly balances, and when, so far as the Accountant-General and his Clerks have the means of estimating, the probable demands on the fund in Court are likely to leave a large amount of money *dead and unemployed*, the Accountant-General communicates the fact to the Solicitor to the Suitors, or in some instances the Solicitor to the Suitors originates the inquiry at the Accountant-General's Office, with a view to taking the opinion of the Lord Chancellor as to the fitness of his ordering an investment to be made out of the General Cash. The intervention of the Solicitor to the Suitors is connected with his superintendence of the Suitors' Fund, and was, some years since, particularly desired by the Accountant-General, at the time when his remuneration depended on brokerages, and an order for investing a large fund would obviously make an important addition to it.

(g) This amount of 132,555*l.* 19*s.* 11*d.* was the total income of the Suitors' Fund for the year ending 1st October 1860, added to the balance on the 1st October 1859. It can hardly be said to have been *standing on the credit side of the account on the 1st October*, inasmuch as the debit side shows that 112,501*l.* 2*s.* 3*d.* had been paid and carried over out of it.

or Reduced, or, as is not improbable, partly in one and partly in the other.

Fund B., on the same 1st October 1860, consisted of (a) 1,291,629*l.* 5*s.* 6*d.* stock, viz., 570,700*l.* 16*s.* 1*d.* Consols, 720,904*l.* 3*s.* 5*d.* Reduced Annuities, and (b) 24*l.* 0*s.* 6*d.* New Three per Cent. Annuities, standing in the name of the Accountant-General to an Account in the Chancery Office, intitled "Account of Securities purchased with Surplus Interest arising " from Securities carried to account of monies placed out for the benefit " and better security of the Suitors of the High Court of Chancery." The capital of Fund B. forms a guarantee fund to make good any deficiency in the capital of Fund A., to repay the suitors' cash represented by Fund A., and is one of the three funds recommended in the Report just referred to, to be applied towards defraying the expense of erecting the new Courts of Justice.

(57.) The total amount of cash on the 22,759 various accounts of the suitors in the Chancery Office at the Bank on the 1st October 1860 was 2,821,067*l.* 8*s.* 8*d.*, (c) and on this sum the individual suitors, to whom it may ultimately be adjudged to belong, will receive no interest. On the same 1st October, 2,464,744*l.* 1*s.* 10*d.*, part of the sum just mentioned, remained invested in 2,827,526*l.* 0*s.* 3*d.* stock on Fund A., as before referred to, and the balance of the suitors' cash in the Bank to the credit of the Accountant-General on the same day was 356,323*l.* 6*s.* 10*d.* The stock on Fund A. was purchased at the average price of about 87, and, if converted into cash at 92, would leave a surplus of 5*l.* per cent., or about 150,000*l.* stock.

(58.) On the 1st October 1860 the stocks in the books of the Bank of England in the name of the Accountant-General (including the stocks on Funds A. and B.) were upwards of 52,000,000*l.*, and consisted, *inter alia*, of 38,038,019*l.* 13*s.* 8*d.* Consols, 7,267,018*l.* 2*s.* 6*d.* Reduced Annuities, and 5,497,331*l.* 12*s.* 1*d.* New Three per Cent. Annuities.

(59.) The future payment by the Government to the Bank, under Act of 24 Vict. c. 3. (passed 1861), for the management of the Public Debt (amounting to 800 millions), is to be about 300*l.* for each million up to 600 millions and 150*l.* for each million in excess thereof, which will give for these three amounts of stock, each standing on one account in the name of the Accountant-General, 7,500*l.* a year, calculated at the lower rate of 150*l.* a million. It is understood that the minimum balance of cash which the Accountant-General is at any time to have standing to his credit at the Bank, by way of remuneration to the Bank for the expenses of transacting the financial business of the Court of Chancery, is 300,000*l.** (d) From February to July, however, in each year since 1844, the balance has been, and still is, probably one million in excess of that sum, owing to the Parliamentary deposits paid in every year by the promoters of public undertakings under the Act of 9 Vict. c. 20. (e) It may also be mentioned that, from February to August 1845, the balance of cash in the Bank of England to the credit of the Accountant-General exceeded six millions. Down to the year 1844 the Accountant-General's cash balances at the Bank were treated, in the weekly statements of the assets and liabilities of the Bank published in the "London Gazette," as "Public Deposits;" but since that period such balances have been treated as "Private Deposits." (f) Whenever the balance exceeds 300,000*l.*, and is likely so to continue for any lengthened period, it is understood the Accountant-General represents the fact to the Lord Chancellor, who is empowered by the Act 1 & 2 Vict. c. 54. s. 1. to order the excess to be invested in securities in the name of the Accountant-General on the above "Fund A."

2. *As to the Income thereof.*

(60.) The amount of dividends of the stock on the Suitors' Fund (Funds A. and B.) credited in 1860 to the Accountant-General on this account, *after deducting Income Tax*, was 112,133*l.* 9*s.* 1*d.* To this extent these suitors who had not any unemployed cash in Court derived an equal benefit with those who had cash in Court, by being relieved from the payment of an equivalent amount of fees on their proceedings. In addition to these dividends a sum of 520*l.* for rent received in 1860 was placed to this account, and the sums being added to the balance on the same account brought forward from the year ending on the 1st October 1859, of 19,902*l.* 10*s.* 10*d.*, (g) there was standing to the credit side of this account on the 1st October 1860, 132,555*l.* 19*s.* 11*d.*

3. *As to the Charges thereon, and mode of paying the same.*

(61.) The income of that portion of the Suitors' Fund constituting Fund A. by the Act originating it in 1739, was and still continues charged with salaries to the Accountant-General and his Clerks; and by various subsequent Acts (most of which will be found enumerated by Mr. Parkinson in his Evidence before the Committee on Fees (*vide* Report of 1848, p. 58) the income of the entire fund (A. and B.) was charged with salaries to the Lord Chancellor, the Lords Justices, and the Vice-Chancellors, but these have since been transferred to and are now charged on the Consolidated Fund. The Suitors' Fund has been also charged with retiring allowances to officers; with compensations in respect of some of the abolished offices; with salaries to some officers of the Court; and with the expenses of some of the Courts and of some of the Offices, as well as with other miscellaneous payments which still continue to be paid thereout, as shown in the Accountant-General's Annual Return for 1860, as to the Suitors' Fund in Schedule hereto, No. XI.

* See Report of 1860, on Concentration of Courts of Justice, Ans. 1666.

† This rent is payable by the Commissioners of Patents for a portion of the buildings vested in the Lord Chancellor, and lately occupied by the Masters, and let under the authority of the 19th section of Act of 18 & 19 Vict. c. 134; and such rent is paid into this Fund under section 22 of the same Act.

(62.) There are also charged on the income of this fund by the Act of 1 Will. 4. c. 36. sect. 15., Rule 7, the costs occasioned by the non-compliance with the process of the Court, by suitors who are detained in prison, and on inquiry prove to be unable on account of poverty to employ a solicitor. There appears in the same return a payment, in respect of such costs, of 228*l.* 0*s.* 1*d.* as being for "Costs of Contempt under Sir E. Sugden's Act." There is also included therein a payment to the "Solicitor to the Suitors' Fund, in lieu of Costs," 1,200*l.*, hereinafter explained, and a payment of 468*l.* 11*s.* 5*d.* for "Counsel's Fees, Insurance, and Disbursements."*

(63.) The payments out of the Suitors' Fund for compensations, salaries, and pensions, are made, *less Income Tax*, pursuant to the Act of 9 & 10 Vict. c. 81.; (a) and it is provided by the Acts imposing the several charges on this fund, that the payments thereon shall be made by the Bank of England on the order of the Lord Chancellor, *without any draft from the Accountant-General*, and for these payments each order authorizing the same is drawn by the Solicitor to the Suitors' Fund, and is signed by the Lord Chancellor, and a duplicate thereof is then issued by one of the Registrars, and transmitted by such Solicitor to the Chancery Office in the Bank, where the payee attends and signs a receipt, and is furnished with a ticket in the following form :—

To the Public Drawing Office.	
4 Feb ^r 1861.	
Pay to T. Smith	
or Bearer Twenty-three pounds 19 2.	
for value received of	
£ 23. 19. 2.	W. Harrison.
This Ticket is to be cleared immediately, and not to be taken out of the Bank.	

On the presentation of this ticket (b) (endorsed by the bearer) in the Public Drawing Office, the amount is paid, and the first intimation thereof which the Chancery Accountant-General has is from the daily list of payments sent to him by the Bank (c).

(64.) The total amount of payments out of the Suitors' Fund—

	£	s.	d.
For 1860, was	61,338	13	0
To which being added the "Surplus Interest " carried over to the Suitors' Fee Fund " Account, as directed by the Act of 15 & 16 " Vict. c. 87. s. 53." hereinafter refer-			
" red to†	51,162	9	3
Made the total of	£112,501	2	3

and left a balance on the account, on the 1st October 1860, of 20,054*l.* 17*s.* 8*d.* (d)

III.—SUITORS' FEE FUND.

1. As to the Income from Fees and other sources.

(65.) The system of remunerating the officers of Courts of Justice by fixed salaries was commenced in certain offices of the Court of Chancery in 1833, when a Bill for that purpose was introduced into the House of Commons, which was referred to a Select Committee. This Committee, in their Report, p. 5, (ordered to be printed 17th August 1830,) expressed the following opinion :—"In recommending yearly salaries to be given to the said several officers, your Committee have not omitted to consider the very difficult question, whether payment by salary or payment by fees conduces most to the efficient discharge of public duties; but on the whole they are of opinion that the experiment of payment by salary ought to be made in these cases." This Bill subsequently received the Royal assent, and is the Act hereinafter referred to as the 3 & 4 Will. 4. c. 94. This Act has been followed by the passing of several similar Acts, which have resulted in fixed salaries being paid to all the officers of the Court of Chancery (except the Conveyancing Counsel), and the entire abolition of the former mode of remunerating these officers by permitting them to receive fees and retain them for their own use.

(66.) This Act of 3 & 4 Will. 4. c. 94. (passed in 1833, and commonly known as "Lord Brougham's Chancery Regulation Act,") established this Suitors' Fee Fund. This Act (by section 37) authorized the Lord Chancellor, with the advice and consent of the Master of the Rolls and the Vice-Chancellor (there was then only one) to fix and settle a Table of

Observations by the Accountant-General.

(a) Not all the charges. The Surveyor, the Solicitor to the Suitors, costs of contempt, and expenses of courts and offices, are paid by drafts.

(b) It is not required to be endorsed. The person who presents it is asked to write his address on the back, as a precaution against mistake.

(c) But an office copy of the order is always sent to him by the Solicitor to the Suitors, and the Clerk who enters the payments in the journal is furnished with a list of all those persons who receive, without draft, the amount of the payments to them, and the time when they are due, and the office, &c., in respect of which the payments are made.

(d) This balance was chargeable with a considerable sum for salaries and pensions to the Masters and others, which became due on the 5th October, before any further dividend would be received. The October dividend, due on the 10th, could not be received by the Bank Cashier and placed to the Accountant-General's credit until the 13th.

* The 6th section of the Act of 23 & 24 Vict. c. 149. authorizing such of the payments in the last-mentioned item as relate to proceedings taken on behalf of prisoners or defendants under Order of the Court, provides for repayment thereof to this Fund, out of any funds or costs that any prisoner or defendant on whose behalf such payments have been made may become entitled to. It appears by the annual returns that two such repayments only have ever been made.

† It does not appear by this section how the amount to be carried over is to be ascertained, or whether the Lord Chancellor is to make an order for such carrying over.

Observations by the Accountant-General.

Fees to be received and taken by the Clerks to the Masters, and by the Registrars and their Clerks, and by the Examiners (and also by other officers therein mentioned, whose officers have since been abolished), and directed such officers to pay into the Bank of England, to the credit of "the Accountant-General, once in every month, all fees or sums to be received by them respectively by virtue of this Act (the amount so received and paid by them to be verified by affidavit, to be sworn before one of the Masters of the Court), and that the several sums, when so paid in, shall be, from time to time, placed to the said account, to be intitled 'The Suitors' Fee Fund.'" And the same Act provided for such Table of Fees being laid on the table of the House of Commons.

(67.) In 1842 was passed the Act of 5 & 6 Vict. c. 103. abolishing the Six Clerks' Office, the officers in which, up to the time of its abolition, had retained for their own use the fees received by them. It established, in lieu of this office, the offices of "Taxing Master," "Clerks of Records and Writs," and "Clerk of Enrolments," and contained similar provisions to those in the Act just before-mentioned with respect to the fees to be received in such offices (the amounts whereof were to be regulated by the Lord Chancellor, with the advice and consent of the Master of the Rolls and the Vice-Chancellors, or any two of them), and the payment thereof into the "Suitors' Fee Fund." The 29th section of this Act directed the dividends to accrue on 1,517*l.* 9*s.* 5*d.* Consols, standing in the name of the Accountant-General on an account intitled "Money arising by the sale of the Six Clerks' Office," to be carried over to and become part of the "Suitors' Fee Fund."

(68.) The two preceding Acts applied only to a limited number of offices of the Court, and did not include the office of the Accountant-General, who continued to retain for his own use, in addition to his salary paid out of the Suitors' Fund, three-fifths of the brokerage on the stock purchased or sold for the suitors; and his Clerks also received and retained for their own use fees and gratuities, in addition to their salaries out of the same fund.

(69.) In 1847 and 1848 the whole subject of fees in the Courts of Law and Equity was investigated by a Committee of the House of Commons, who made two Reports, the first in 1848, and the second in 1849 (Parliamentary Papers, 1848, No. 307, and 1849, No. 559). The first Report embraced the following resolutions:—

"That the amount required for the maintenance of the Court of Chancery, which the income arising from the Suitors' Fund is insufficient to pay, should be raised in the following manner, viz.:—

"1. That a poundage of one-half per cent. should be paid on the investment of all sums of money paid into Court, and one-half per cent. on the payment of all dividends, and one-half per cent. on the passing of the accounts of all Receivers.

"2. That a fee of sufficient amount to make up the rest of the income required should be paid on every order pronounced by the Court.

"That no other fee of any description be taken in any office or connected with the Court of Chancery."

The second Report, after re-stating the foregoing resolutions, proceeded as follows:—

"After much consideration of these resolutions, your Committee have seen reason for modifying, in some respects, the recommendation therein contained. They are of opinion that, in adopting, in lieu of fees, a per-centage charge, as recommended, on a portion of the business in the Court of Chancery, provision should be made that the produce of such per-centage should not, at any time, exceed a moiety of the total amount produced by the fees and per-centage together; that the that the per-centage should not exceed 10*s.* per 100*l.*, and that, as opportunities occur for diminishing the charge on suitors, care should be taken to reduce the per-centage and the other fees in equal proportion.

"That the Court should have the same power of directing the parties to suits and other proceedings to bear the whole or any part of the expense of such per-centage, as it now exercises with relation to the costs of such suits and proceedings.

"Your Committee are of opinion that, with regard to the convenience of the suitor, and expedition of business, the fees should be consolidated; but in lieu of their former recommendation, that a fee should be paid on every order pronounced by the Court, they would suggest that the consolidation and distribution of them, in the different stages of the suit, should be fixed by an order of the Lord Chancellor.

"That the system of brokerage on Suitors' Funds be discontinued, and that the Accountant-General be paid by a salary, and that only the balance of the stock required to be bought or sold in each day be bought and sold by the broker, and that the one-eighth per cent. on the funds transferred thereby saved to the suitor, and which, but for this alteration, would have been actually bought and sold, should be paid to the Suitors' Fee Fund for the benefit of the suitors."

(70.) The recommendations as to levying a per-centage on the funds of the suitors coming into Court, and to buying and selling stock for the suitors, have not yet been adopted, but the others were carried into effect by the Act of 15 & 16 Vict. c. 87. (passed in 1852), intitled "An Act for the Relief of the Suitors of the High Court of Chancery." This Act empowered the Lord Chancellor to vary, reduce, or abolish any of the fees payable in relation to the proceedings of the Court, to substitute other fees in lieu thereof, and to direct that all such fees should be collected by means of stamps, under the direction of the Commissioners of Inland Revenue, who were to keep separate accounts thereof, and to pay the monies received and collected in respect thereof (after deducting their

expenses) into the Bank, to the credit of the Accountant-General, "The Suitsors' Fee Fund Account."

(71.) This Act also provided that the brokerage theretofore received by the Accountant-General, and retained for his own use, (a) should be paid by him into the Bank, to his credit as Accountant-General, to the Suitsors' Fee Fund Account, "at such times and under such regulations as the Lord Chancellor shall, from time to time, by any order direct." The 8th General Order, of the 25th October 1852, directed that the brokerage should be paid in on the 1st of every month, or as soon thereafter as could be, but did not provide for the amount being verified by affidavit. This General Order is not contained in the Consolidated Chancery Orders of 1860. By the 41st section of this same Act, power was given to the Lord Chancellor to nominate not less than six Conveyancing Counsel, to be the Conveyancing Counsel upon whose opinion the Court or any Judge may act in any of the cases therein mentioned, and by the 43rd section of the same Act, "the allowances in respect to fees to such Conveyancing Counsel shall be regulated by the Taxing Master of the Court, subject to an appeal to the Judge, whose decision shall be final." The Lord Chancellor has exercised the power conferred by the 41st section of this Act, and there are now six such Conveyancing Counsel, but no account is rendered by them of the amount of the fees received by them from the suitsors and retained for their own use.

(72.) By General Orders of the Lord Chancellor, made in 1852, under the provisions of this Act (Consolidated Chancery Order 39), all fees payable by the suitsors in relation to Chancery proceedings (except the fees paid to the Conveyancing Counsel) are collected by means of Chancery fee stamps, and the net amount paid into this fund by the Commissioners of Inland Revenue in 1860 was 69,538*l.* 4*s.* 7*d.* In the offices of Clerk of Enrolments, however, and of the "Petty Bag," the fees payable therein, as well as the fees formerly payable to the Lord Chancellor, continue to be received by the officers in money, and to be paid by them into the Bank, to the credit of the Accountant-General, to the Suitsors' Fee Fund account, and 6,611*l.* 0*s.* 2*d.* was so paid in by them in 1860. It is provided by a similar Order, issued in October 1852 (Consolidated Order 39, Rule 8), "When costs are directed to be paid out of a fund in Court, the fees of taxation shall not be payable by means of stamps, but shall be carried over by the Accountant-General to the credit of the Suitsors' Fee Fund, and to that intent the Taxing Master shall, in such cases, certify the amount of the fees." In 1860 the amount of the fees so carried over was 12,982*l.* 4*s.* 2*d.*; and, in the same year, the brokerage paid into this fund by the Accountant-General amounted to 4,105*l.* 8*s.* 6*d.*

(73.) Under the 35th section of the Joint Stock Companies' Winding-up Acts of 1848 and 1849, a percentage is levied upon the monies received by each official manager, in lieu of fees, on the proceedings under that Act. The amount of such percentage, as ascertained by the Judge, is paid by him into this fund, and, in 1860, 1,429*l.* 8*s.* was so paid in.

(74.) The Suitsors' Relief Act of 1852, just referred to, also empowered the Lord Chancellor to abolish all fees payable in respect of proceedings in Lunacy, and to substitute, in lieu thereof, a percentage or *ad valorem* payment on the clear annual income of lunatics, and on the amount of the taxed costs incurred in proceedings in Lunacy; and it directed the amount of such percentage or *ad valorem* payment to be paid into the Bank, to the credit of the Accountant-General, to the Suitsors' Fee Fund account; but this provision was varied by the Lunacy Regulation Act of 1853, which (by section 26) directed that the percentage on the respective clear annual incomes of all lunatics to be so paid should be as follows:—

Four per cent. for each clear annual income amounting to 100*l.* and not amounting to 1,000*l.*, but so that no larger sum be payable in any such case in any one year than 30*l.*

Three per cent. for each clear annual income amounting to 1,000*l.* and not amounting to 5,000*l.*, but so that no larger sum be payable in any such case in any one year than 100*l.*

Two per cent. for each clear annual income amounting to 5,000*l.* and upwards, but so that no larger sum be payable in any such case in any one year than 200*l.*

It also prescribed the mode of ascertaining the amount of such percentage. This last-mentioned Act also substituted certain fees, of limited amount, on each Order and Report, in lieu of the fees then payable in relation to the proceedings in Lunacy, and directed the same to be collected by means of like Chancery fee stamps, and the produce to be paid by the Commissioners of Inland Revenue into the Suitsors' Fee Fund.

(75.) By both the Acts of 3 & 4 Will. 4. c. 94. and 5 & 6 Vict. c. 103., before referred to, it was provided that if at the end of any year there should be a surplus standing to the credit of the Suitsors' Fee Fund account, after payment of the charges thereon, the Lord Chancellor might order the same, or such part thereof as he should think fit, to be invested in Government securities in the name of the Accountant-General, to be placed to a separate account, to be entitled "Account of monies placed out to provide for the officers of the High Court of Chancery," and might, in like manner, order the accruing dividends on such securities to be carried to the same account, and to be re-invested and accumulated therewith. This latter fund, in the Report of 1860 on the Concentration of the Courts of Justice, is distinguished as Fund D.

(76.) For several years after the passing of these Acts there was a considerable annual surplus on the Suitsors' Fee Fund (in the same Report distinguished as Fund C.) arising from the excess of fees received from the suitsors, and paid over by the officers to this Fund C., beyond the charges thrown upon it, and this notwithstanding large reductions in the fees from time to time effected by successive Orders of the Court.

Observations by the Accountant-General.

(a) The exact process of making these payments in is set forth in the statement on the part of the Accountant-General, Appendix No. III., p. 33, par. 10. In point of fact the Accountant-General never does receive the brokerage now, and the process of paying it into Court was settled by him with the concurrence of the Lord Chancellor, and was made with a view to save the intermediate step of the money passing through his hands. It is, however, in form as well as in spirit, paid in by the Accountant-General, who issues a direction for himself to pay in, and the Bank receipt is for a payment made by the Accountant-General. The receipt is in the following form:—"Received pursuant to an Act of Parliament passed in the 16th year of the reign of Her Majesty Queen Victoria, intitled an Act for the Relief of the Suitsors, &c., a General Order, dated 25th October 1852, and a certificate and request by Edward Mortimer, Esq., dated , of William Russell, Esq., Accountant-General of the Court of Chancery, the sum of £ , being the whole amount of the Accountant-General's proportion of brokerage from to . The direction to pay in is issued by the Accountant-General upon receiving a certificate signed by the broker "of the amount of brokerage which has been received for purchases and sales of stock, made by order of the Accountant-General, from to , and of three-fifths thereof." The Broker sends to the Accountant-General a separate account for each stock day of the brokerage retained from every sum of cash invested, and from every amount raised by sale. The amount of brokerage upon each purchase and sale of stock is also specified by the Accountant-General in his certificates of those transactions, which are filed at the Report Office. The certificate also mentions the price at which the purchase or sale has been effected.

(77.) This surplus was from time to time invested on such separate account as directed by these Acts, and the sums so invested constitute this Fund D., which consists of 201,028*l.* 2*s.* 3*d.* Consols, and is another of the three funds in the same Report referred to as, in the judgment of the Commissioners, properly available in aid of the erection of Courts and Offices.

(78.) By the Act of 15 & 16 Vict. c. 87., before stated, it was provided (section 53) that the surplus income of the Suitors' Fund (Funds A. and B.) should no longer be invested and accumulated, but should be carried over by the Accountant-General to the Suitors' Fee Fund account (Fund C.), and become part thereof; and also that the annual surplus (if any) of the same Fund C. might be invested in Government Securities and added to Fund D., and that any deficiency in Fund C. should from time to time be made good out of the income of Fund D., and, if necessary, by sale of so much of the securities as might be necessary for that purpose. This latter provision was varied in 1853 by the Act of 16 & 17 Vict. c. 98. s. 4., which directed the dividends of Fund D. to be carried over by the Accountant-General to Fund C., and to become part thereof.

(79.) These provisions, coupled with another provision in the same Suitors' Relief Act, transferring to the Consolidated Fund the Salaries of the Lord Chancellor, the Lords Justices, and two of the Vice-Chancellors, amounting to 30,000*l.* a year, theretofore charged on the income of the Suitors' Fund (Funds A. and B.), caused an addition of income to the Suitors' Fee Fund (Fund C.) from these sources of upwards of 50,000*l.* a year, and the then Lord Chancellor (Lord St. Leonards) at the same period (1852) by order varied, reduced, and abolished some of the fees* then payable by the suitors in relation to proceedings in the Court, and substituted others in lieu thereof, and thereby effected a reduction in the fees to the extent of 50,000*l.* a year. The extent of the reduction by the same Lord Chancellor of the fees payable by the Chancery suitors in Ireland appears in the Parliamentary Paper, No. 78, ordered to be printed by the House of Commons, 4th March 1856. The Consolidated Fund, by the Act of 19 & 20 Vict. c. 92. s. 28., is charged with the deficiency in the Irish Chancery Suitors' Fee Fund, and is now making good the existing deficiency to the extent of upwards of 20,000*l.* a year.

(80.) The total income of the Suitors' Fee Fund in 1860, derived from the various sources, as shown in Schedule No. XI., was 158,213*l.* 7*s.* 10*d.*, whereof 684*l.* 6*s.* was the amount of the fees collected in the Accountant-General's Office, as detailed, *ante*, p. 29.

(81.) It may be mentioned that no fees or percentage whatever are assessed in respect of the management and dealings with the funds of the suitors. The extent of the annual transactions in these funds for the years 1858, 1859, and 1860 appears in paragraph 48, *ante*.

2. As to the Charges thereon and mode of paying them.

(82.) The Act of 3 & 4 Will. 4. c. 94., which established the Suitor's Fee Fund, directed that there should be payable thereout to such of the officers as were named therein the fixed salaries mentioned in that Act; and it prohibited any such officer from taking or receiving for his own use any fee, gift, gratuity, or emolument, or anything of value. The same Act authorized the Commissioners of Her Majesty's Treasury to award compensation for any diminution in the emoluments of such officers caused by the operation of that Act, and directed such compensations to be payable out of the same fund.

(83.) The Act of 5 & 6 Vict. c. 103., which created the offices of "Taxing Masters" and "Clerks of Records and Writs," charged on this fund the fixed salaries mentioned therein of those officers and their clerks, and the office expenses, as well as the compensations thereby authorized to be awarded to the officers of the Six Clerks' Office, abolished by that Act, but the amount whereof was to be determined by the Lord Chancellor.

(84.) The Act of 15 & 16 Vict. c. 87., before-referred to as the Suitors' Relief Act, provided that no officers of the Court were to be any longer remunerated by receiving fees for their own use, but that all officers were to be paid by salary, and these salaries were charged on the Suitors' Fee Fund, and such of them as were not specified in that Act were to be fixed by the Commissioners of Her Majesty's Treasury.

(85.) The charges on the Suitors' Fee Fund imposed by these and other Acts comprise such of the compensations in respect of reduced or abolished offices, salaries of the officers, and rents of hired buildings, as are not charged on the Suitors' Fund, as well as the expenses of copying documents in the several offices, and other miscellaneous expenses, and in these charges on this fund are included the salary of 2,700*l.* per annum, directed by the last-mentioned Act to be paid to the present Accountant-General, in lieu of the brokerage theretofore received by him for his own benefit, and in addition to the salaries of 900*l.* a year and 600*l.* a year charged on the income of the Suitors' Fund; and also an increased salary, under the same Act, to some of the Accountant-General's Clerks, of 2,122*l.* 9*s.* 10*d.*, in lieu of the fees and emoluments theretofore received by them for their own use, and in addition to their salaries charged on the Suitors' Fund.

(86.) The amount of these charges are authorized to be paid by orders from time to time, signed by the Lord Chancellor, which are drawn by

* The power given by the Suitors' Relief Act of 1852, before referred to, to the Lord Chancellor, to vary, reduce, or abolish any of the fees payable in relation to proceedings of the Court, and to substitute other fees in lieu thereof, did not, like the previous Acts before mentioned, contain a provision for every such order being laid on the table of the House of Commons.

the Solicitor to the Suitors' Fund, and a duplicate of every such order is issued by one of the Registrars, and transmitted by such Solicitor to the Accountant-General, who issues thereon a certificate (draft or cheque) to the Bank, that they are to pay to persons named in such order the amount therein mentioned, the operation being similar to that mentioned, *ante*, in paragraph (23) under the head of "Paying out of Court " Principal Money." In case the person named in such order cannot or does not wish to attend at the Accountant-General's office to receive such certificate (draft or cheque) a power of attorney similar to that mentioned, *ante*, paragraph (29) must be given to him.

(87.) The payments out of this fund for compensation and salaries (which in 1860 amounted to 141,087*l.* 3*s.*) are made without the income tax being "detained and stopped out of the same," as provided by the 5th Rule of Schedule E. to the original Income Tax Act of 5 & 6 Vict. c. 35., and the income tax is subsequently paid by the recipients to the collector thereof. (a) Now, on so much of the income of this fund as is derived from this surplus income of the Suitors' Fund (Funds A. and B.), and the income of Fund D. carried to this account (being dividends of stock), the income tax had been deducted before such dividends were paid to the Accountant-General and placed to these accounts, and, consequently, the income tax was paid twice. This portion of the income of the Suitors' Fee Fund for 1860 amounted, after deduction of income tax, to 56,904*l.* 6*s.* 7*d.*, and the loss to the fund from not deducting income tax on the compensations and salaries paid by the application of this sum to the purpose amounts (the income tax being at the rate of 10*d.* in the pound) to upwards of 2,000*l.* a year.

(88.) The total payments out of this fund in 1860 amounted to 156,991*l.* 14*s.*, and left an excess of income over expenditure for 1860 of - - - - - £ s. d. 1,221 13 10 To this being added the balance of cash on this fund on 1st October 1859, of - - - - - 83,557 13 8

Made the balance in 1860 - - - - - £84,779 7 6

(89.) The following is believed to be a correct abstract of the Return made by the Accountant-General of the income and expenditure of the Suitors' Fund and Suitors' Fee Fund for 1860 (Schedule XI.).

Observations by the Accountant-General.

(a) Much consideration was given to this subject at the time of the progress through Parliament of the Chancery Suitors' further Relief Bill (16 & 17 Vict. c. 98.). The then Lord Chancellor did not consider that he had power to order the income tax to be deducted from the salaries, &c., paid out of the Suitors' Fee Fund Account, and steps were thereupon taken by the Solicitor to the Suitors to get such a clause inserted in the above-mentioned Bill as would have had the effect of recouping the fund the loss mentioned in the text. This clause had the sanction of Lord St. Leonards, the proposer of the Bill, but it was rejected by the House of Commons.

Abstract of Return of the Accountant-General as to the Suitors' Fund and Suitors' Fee Fund for 1860.
COURT OF CHANCERY.

SUITORS' FUND.		£	s.	d.	£	s.	d.
Income:—							
Balance of cash on 1st October 1859	- - - - -	19,902	10	10			
Dividends of *3,904,489 <i>l.</i> 19 <i>s.</i> stock purchased previously to 1859 (viz., †2,613,360 <i>l.</i> 14 <i>s.</i> 3 <i>d.</i> on Fund A. and †1,291,629 <i>l.</i> 5 <i>s.</i> 6 <i>d.</i> on Fund B., and also of 214,165 <i>l.</i> 6 <i>s.</i> additional stock on Fund A., purchased with suitors' cash during 1860)	- - - - -	112,133	9	1			
Rent of late Master's Offices in Southampton Buildings, let to Commissioners of Patents	- - - - -	520	0	0			
					132,555	19	11
Payments:—							
\$Payments - - - - -	- - - - -	61,338	13	0			
Carried over to Suitors' Fee Fund - - - - -	- - - - -	51,162	9	0			
					112,501	2	3
Balance of Cash on 1st of October 1860	- - - - -				20,054	17	8
SUITORS' FEE FUND.							
Income:—							
Balance of cash on the 24th of November 1859	- - - - -	83,557	13	8			
Dividends brought from Suitors' Fund	- - - - -	51,162	9	3			
Dividends of 201,028 <i>l.</i> 2 <i>s.</i> 3 <i>d.</i> stock on Fund D., purchased with surplus fees since 1833	- - - - -	12,115	18	11			
Brokerage paid in by Accountant-General under 15 & 16 Vict. c. 87. s. 18.	- - - - -	4,105	8	6			
(a) Fees levied on the suitors during the year	- - - - -	97,203	12	9			
	Total income				214,771	1	6
Payments:—							
\$Payments - - - - -	- - - - -				156,991	14	0
Balance of cash on the Suitors' Fee Fund on the 24th of November 1860	- - - - -				84,779	7	6
Add balance of cash on Suitors' Fund on the 1st of October 1860	- - - - -				20,054	17	8
Total balance of cash on Suitors' Fund and Suitors' Fee Fund	- - - - -				£104,834	5	2

§ The following is an analysis of the above payments:—

	Total.	Charged on Suitors' Fund.	Charged on Suitors' Fee Fund.
	£ s. d.	£ s. d.	£ s. d.
Retiring pensions to the late Masters, and compensations in respect of abolished offices	69,710 14 10 <i>b</i>	27,139 2 8	42,571 12 2 <i>b</i>
Salaries of officers	116,618 8 11 <i>c</i>	17,102 18 1	98,515 10 10 <i>c</i>
Allowances to retired officers	12,115 18 11	12,115 18 11	- - -
Rents of offices	1,444 16 3 <i>d</i>	Not shown.	1,444 16 3 <i>d</i>
Expenses of copying in offices	6,695 14 3	- - -	6,695 14 3
Other expenses of courts and offices and miscellaneous payments	12,744 13 10	4,980 13 4	7,764 0 6
£	218,330 7 0	61,338 13 0	156,991 14 0

[*b* It is supposed that the salary of 1,000*l.* payable to the Master of Reports and Entries is included in this amount, as being the salary of an abolished office, although he continues to perform the duties assigned to him by the Lord Chancellor.
c The sum of 800*l.* for rent of Taxing Master's Offices appears to have been improperly included in this amount.
d This amount should be 2,244*l.* 16*s.* 3*d.*, the sum of 800*l.* mentioned in (*c*) having been left out.

Note by Accountant-General.]

The correct amounts are
* £3,904,989 15 1
† £2,613,360 4 8
‡ £1,291,629 10 6
No dividend was received on the additional stock. It consists of Reduced Annuities, purchased in August 1860.

(a) Part of this amount was a sum of 43*l.* 8*s.* 10*d.* interest brought over from the account of "Money arising by the sale of the Six Clerks' Office." The Fees were 97,160*l.* 5*s.* 11*d.*

IV.—SOLICITOR TO THE SUITORS' FUND.

(90.) The present Solicitor to this fund is a practising solicitor, and was appointed in 1842. The Order of the Lord Chancellor of 29th October 1842, appointing him, and defining his duties, will be found in "Sanders' Collection of Chancery Orders," p. 934. The duties performed by such Solicitor in connection with the Sutors' Fund and the Sutors' Fee Fund may be stated shortly to be,—

1. To draw all orders reducing, varying, or abolishing the fees imposed on the suitors, and to substitute other fees in lieu thereof, whenever the Lord Chancellor considers that the state of the Sutors' Fee Fund demands or admits of any alteration in the fees, and to get such Orders signed by his Lordship and published.
2. To inquire into and check all claims for payments out of either the Sutors' Fund or the Sutors' Fee Fund, and annually to submit the same to the Judge for his allowance thereof.
3. To draw all Orders authorizing payments either out of the Sutors' Fund or the Sutors' Fee Fund, and to get such Orders signed by the Lord Chancellor, and a duplicate thereof issued by the Registrar, and to transmit such duplicate to the Bank of England when it relates to the Sutors' Fund, or to the Accountant-General's Office when it relates to the Sutors' Fee Fund, and to attend at the last-mentioned office to identify the persons named in any Order on the Certificate (draft or cheque) being delivered to him for the Bank to pay him the amount mentioned in such Order.

(91.) By Consolidated Chancery Order 12, Rule 5, it is provided, "Where application is intended to be made for the discharge of any prisoner for contempt, and for the payment out of the Sutors' Fund of the costs of such contempt, notice thereof shall be served on the Solicitor to the Sutors' Fund."

(92.) The Order of 29th October 1842, just referred to, appointing the present Solicitor, directed the payment to him, out of the Sutors' Fund, of 600*l.* per annum in lieu of costs, and a subsequent Order of the Lord Chancellor of November 1849 directed an additional 600*l.* a year to be paid him out of the same fund. On this latter Order the Committee of the House of Commons, in their Report on Fees in Courts of Law and Equity, printed by order of the House of Commons of 14th August 1850 (Parliamentary Paper, 1850, No. 711,) observe, at p. x., "That your Committee cannot help viewing with considerable jealousy the power which the Lord Chancellor is thus able to exercise of burdening, at pleasure, the Sutors' Fund with permanent charges; and while they are not disposed to call in question the particular exercise of it in this case, they are of opinion that the sanction of Parliament should always be obtained before any such charges are laid upon this fund."

(93.) By the Act of 23 & 24 Vict. c. 149. (passed in 1860), intituled "An Act to make better provision for the relief of prisoners in contempt of the High Court of Chancery and pauper defendants, and for the more efficient despatch of business in the said Court," additional duties (not connected with either the Sutors' Fund or the Sutors' Fee Fund) were imposed on the Solicitor to the Sutors' Fund, and the Lord Chancellor was authorized to direct an additional salary, not exceeding 300*l.* a year, to be paid to him out of the income of the Sutors' Fund.

SCHEDULE.

No. I.—Order for Payment of Purchase Money into Court, and Investment thereof.



MASTER OF THE ROLLS at Chambers.

MR. ROGERS, Registrar.

Saturday, the 22nd day of December 1860.

Between

JOHN JONES and others - - - Plaintiffs.
DAVID WILLIAMS and others - - - Defendants.

UPON the application of T. D., of S., grocer, the person by the Chief Clerk's Certificate, dated the 7th day of December instant, certified to be the purchaser of the hereditaments comprised in lot one, part of the estates sold under the decree dated the 3rd day of November 1860, and upon hearing the solicitors for the applicant and for the plaintiff, and upon reading the said decree and certificate, and the conditions of sale, and the applicant by his solicitor declaring himself content with the title to the premises, it is ordered that the applicant, Thomas Davies, do, on or before the 20th day of January 1861, pay the sum of 1,000*l.*, being the purchase money for the premises and interest thereon, at the rate of 5*l.* per cent. per annum from the 1st day of January 1861 to the time of payment, less income tax (the amount thereof to be verified by affidavit), into the Bank, with the privity of the Accountant-General of this Court, to the credit of this cause, the Real Estate Account. And it is ordered, that upon such payment being made, the applicant be let into possession of the premises, and receipt of the rents and profits thereof, from the 25th day of De-

cember 1860, and that all proper parties do join in and execute a proper conveyance of the premises to the applicant, or as he shall direct, such conveyance to be settled by the Judge in case the parties differ. And at the request of the plaintiff, by his solicitor, it is ordered that the said sum of 1,000*l.* and interest be laid out in the purchase of Bank 3*l.* per Cent. Annuities in the name of the Accountant-General in trust in this cause, the Real Estate Account, and that the interest to accrue on the Bank Annuities so to be purchased, and all accumulations of interest, be laid out in like manner. And the said sum of 1,000*l.* and interest is not to be paid out except for the purchase of such annuities; and such annuities are not to be sold, transferred, or otherwise disposed of without notice to the applicant.

P. W. R.

Ent^d E. R. (L.S.)

No. II.—Directions to pay in Money into Court in a Cause.

No.

I do hereby certify that, pursuant to an Order dated the 22nd day of December 1860, and an affidavit of T. J., filed the 1st day of February 1861, Thomas Davies is, on or before the 20th day of January 1861, to pay into the Bank of England the sum of 1,004*l.*, which is to be placed to my account as Accountant-General, and to the credit of the cause Jones v. Williams, the Real Estate Account. And a receipt is forthwith to be brought to me, from one of the cashiers of the Bank, for payment thereof, as directed by Act of Parliament.

W. RUSSELL, A.-G.

£1,004.

No. III.—*Certificate of Payment of Money into Court.*
4th August 1860.

JONES v. WILLIAMS.

I do hereby certify that, pursuant to an Order dated the 22nd December 1860, Thomas Davies has paid into the Bank of England the sum of 1,004*l.*, which is placed to my account as Accountant-General, and to the credit of this cause, the Real Estate Account, in the books kept at the Bank and in my office, as appears by the receipt of Mr. J. H. Shelton, one of the cashiers of the Bank, dated 19th January 1861, hereto annexed.

(Signed) W. RUSSELL, A.-G.

London, the 19th January 1860.

Received, pursuant to an Order dated the 22nd December 1860, of Thomas Davies, the sum of 1,004*l.*, which money is placed to the account of William Russell, Esq., as Accountant-General of the Court of Chancery, and to the credit of the cause Jones v. Williams, the Real Estate Account, in the books kept at the Bank for the suitors of the said Court of Chancery.

For the Governor and Company
of the Bank of England,

£1,004. (Signed) J. H. SHELTON.

Ent^d J. S. WALBY.

No. IV.—*Certificate of Transfer of Stock into Court.*

In the matter of the trusts of the residuary personal estate bequeathed by the Will of J. M., deceased.

18th July 1860.

I do hereby certify that, pursuant to an Act of Parliament of the 10th and 11th years of the reign of Her Majesty Queen Victoria, intituled "An Act for better securing "Trust Funds, and for the Relief of Trustees," and an affidavit filed 29th May 1860, J. M., widow, has transferred to my account the sum of 12,390*l.* Bank 3*l.* per Cent. Annuities, which I have accepted in trust in this matter, as appears by the certificate of Mr. Palmer, the proper officer of the Bank of England, dated 6th July 1860, hereto annexed.

(Signed) W. RUSSELL, A.-G.

Bank of England, 6th July 1860.

This is to certify that the sum of 12,390*l.* Capital or Joint Stock of Bank 3*l.* per Cent. Annuities was this day transferred by J. M. to the Accountant-General of the Court of Chancery, William Russell, Esq., in trust, to attend the orders of the said Court, in the matter of the trusts of the residuary personal estate bequeathed by the Will of J. M., Esq., deceased.

Ex^d C. H. W. S. PALMER.

No. V.—*Certificate of Investment of Money in Court.*

8th August 1860.

In &c., SIR J. M., &c., the Legacy of 150*l.*, &c.

I do hereby certify that, pursuant to an affidavit, 22nd February 1860, and the Consolidated General Orders, Hilary Term, 1860, Mr. Edward Mortimer, with my privity, purchased the sum of 4*l.* 12*s.* 3*d.* Bank 3*l.* per Cent. Annuities, which hath been transferred to my account, and accepted by me in trust in this matter, as appears by the Certificate of Mr. Hetherington, the proper officer of the Bank of England, dated this day, hereto annexed, and that the said annuities were purchased at 93½ per cent., at which price, including 1*s.* paid for brokerage, the said annuities cost the sum of 4*l.* 7*s.* 6*d.*, which hath been paid to the said Mr. Edward Mortimer by the Bank of England, with the cash placed to the credit of this matter, according to the directions of the said order.

(Signed) W. RUSSELL, A.-G.

Bank of England, 8th August 1860.

This is to certify that the sum of 4*l.* 12*s.* 3*d.* Capital or Joint Stock of Bank 3*l.* per Cent. Annuities was this day transferred to the Accountant-General of the Court of Chancery, William Russell, Esq., in trust, to attend the Orders of the said Court in, &c., Sir J. M., &c., the legacy of 150*l.*, &c.

(Signed) H. M. HETHERINGTON.

£4:12:3

No. VI.—*Certificate of Cheque having been drawn, authorizing payment of Money out of Court.*
30th March 1850.

Between W. W. and others - - - Plaintiffs.

J. H. F. and others - - - Defendants.

I do hereby certify that, pursuant to an Order dated 6th March 1850, I have this day, by note under my hand, written on Cheque Paper, drawn on the Governor and Company of the Bank of England, in the cause W. v. C., the testator's son, the plaintiff H. H., the Infant Account

for 100*l.*, which I have made payable to the plaintiff C. H., according to the directions of the said Order.

W. RUSSELL, A.-G.

NOTE.—It is believed the Accountant-General ceased issuing these Certificates on the abolition of the Office of Clerks of Accounts, in 1852.

No. VII a.—*Request for Power of Attorney.*

N.B.—Such part of this request as is not under-scored is printed.

SMITH versus SMITH.	} Short title of the Cause, or Matter, or Cause and Account, as the case may be, in which the fund stands.
Account of JOHN SMITH,	
a Minor.	

A Power of Attorney from
John Smith, of

Name, description, and address of Granter.

Liverpool,

in the County of Lancaster, Gentleman, the person named in an Order in these Causes, dated 1st February 1861, and in a Report dated 1st March 1861,

Name, description, and address of Grantees.

To Edwin Wilkins Field and Henry Roscoe, both of No. 36, Lincoln's Inn Fields, in the County of Middlesex, Gentlemen,

* If applicable to receipt of dividends, give description and amount of Stock on which they are to be received.

jointly or severally (who is or are well known to me), To receive your Note or Draft on the Bank of England for* the sum of 1,000*l.*

Dated this 1st April 1861.

(Signed) EDWIN W. FIELD.
FIELD & ROSCOE.

To the Accountant-General of the Court of Chancery.

To be signed by the Solicitor himself, who bespeaks it; or if bespoken by a Firm, by one of the Firm, with his own name on behalf of the Firm.

No. VII b.—*Power of Attorney.*

KNOW all men by these presents, That I, John Smith, of Liverpool, in the County of Lancaster, Gentleman, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint Edward Wilkins Field and Henry Roscoe, both of 36, Lincoln's Inn Fields, in the County of Middlesex, Gentlemen, my true and lawful Attorneys, jointly or severally, for me, and in my Name, or in their own Names or Name, but for my use, to ask, demand, and receive of and from the Accountant-General of this Court of Chancery the cheque, note, or draft to be by him drawn on the Governor and Company of the Bank of England for the sum of 1,000*l.*

And I do hereby authorize and empower my said Attorneys or Attorney to write and endorse my Name on the back of such note or draft, and to receive the money drawn for thereby from the Bank of England.

And on receipt of such note or draft, and sum of money, to give proper acquittances and discharges for the same to the said Accountant-General and the Bank of England, hereby ratifying and confirming whatsoever my said Attorneys or Attorney shall do in the premises by virtue of these presents. In witness whereof I have hereto set my hand and seal this Fourth day of April, in the year of our Lord one thousand eight hundred and sixty.

John Smith. (L.s.)

Sealed and delivered (being first duly stamped) in the presence of

John Jones, of Lord Street, Liverpool, Grocer,
a Housekeeper.

Thomas Jones, Lord Street, Liverpool, Builder.

This Paper Writing was produced and shown to Thomas Jones, and is the same mentioned and referred to in his Affidavit sworn this 4th day of April 1861, before me, Arthur Ellis.

In this Power of Attorney the date (in words) must be inserted prior to its execution. Each of the witnesses attesting the same must write their residence and business or occupation in life. One of them must be a Housekeeper and be so described. And one of them must make an affidavit of its due execution before a Master in Chancery or Commissioner for taking Affidavits in Chancery in England, unless the same be executed in those parts of Scotland or Ireland where no such officers are appointed, when it may be made before the Chief Magistrate of the place or other person lawfully authorized to administer oaths.

[*Note by Accountant-General.*—The above Power of Attorney purports to be drawn according to the request (No. 7 a) on the preceding page, but it is defective in a very material point. It would, in the form here given, apply to any draft for 1,000*l.* payable to John Smith, whereas it ought to identify the draft as drawn out of some account pursuant to the particular Order and other papers. If the Power had been made out at the Accountant-General's Office, as all Powers for the Accountant-General to act upon are required to be, it would have described the cheque, note, or draft as being "for the sum of 1,000*l.* directed to be paid out of the cash on the credit of the cause. *Smith v. Smith*, account of John Smith, a minor, to me, the said John Smith, pursuant to an Order dated 1st February 1861, and a Report dated 1st March 1861."]

IN CHANCERY.

Smith versus Smith.

I, Thomas Jones, of Lord Street, Liverpool, in the county of Lancaster, Builder, make oath that I was present and did see John Smith, of Liverpool, aforesaid, Gentleman, duly sign, seal, and as his act and deed deliver this Letter of Attorney hereto annexed, and that the name thereon set as the party executing the same is of the proper handwriting of the said John Smith. And that the name John Jones and Thomas Jones set or subscribed as witnesses to the due execution of the said Letters of Attorney are of the proper handwriting of the said Thomas Jones and of me the said deponent, and that the said Thomas Jones is a Housekeeper, and residing at Lord Street, Liverpool, in the county of Lancaster.

Sworn at Liverpool, in the county of Lancaster, this 4th day of April 1860,
Before me,
Arthur Ellis,
A Commissioner to administer Oaths in Chancery in England.

In this Affidavit the signatures of the person or persons executing the annexed Power of Attorney and of the Witnesses attesting its execution, whether such be the name written at length, or abbreviated, or merely a mark, must be quoted exactly as written; and if by a mark, then this Affidavit must state that the said Power was previously read over to and understood by the Grantor.

No. VIII a.—Certificate of Sale of Stock in Court.

EARL OF M. v. O.

8th June 1860.

I do hereby certify that, pursuant to an Order dated the 24th March 1860, and to the Certificate of R. Disraeli, Esq., one of the Registrars of this Court, Mr Edward Mortimer, with my privity, sold the sum of 29,242*l.* 16*s.* 5*d.* Bank 3*l.* per Cent. Annuities, which I have transferred from my account in trust in this cause, the account of the purchase monies, &c., and that the said Annuities were sold at

95½*l.* per cent., at which price, after deducting 36*l.* 11*s.* 1*d.* paid for brokerage, the said Annuities produced the sum of 27,780*l.* 13*s.* 7*d.*, which hath been paid into the Bank of England, and is placed to my account as Accountant-General, and to the credit of this cause and account, in the books kept at the Bank (and in my office), as appears by the receipt of Mr. J. Kempster, one of the cashiers of the Bank, dated this day hereto annexed.

(Signed) W. RUSSELL, A.-G.

London, the 8th June 1860.

Received of William Russell, Esq., as Accountant-General of the Court of Chancery, the sum of 27,780*l.* 13*s.* 7*d.*, arising by sale of 29,242*l.* 16*s.* 5*d.* Bank 3*l.* per Cent. Annuities, pursuant to an Order dated the 24th of March 1860, and to the Certificate of R. Disraeli, Esq., which money is placed to his account and to the credit of the cause Earl of M. v. O., the account of the purchase monies, &c., in the books kept at the Bank for the suitors of the said Court of Chancery.

For the Governor and Company of
the Bank of England,

(Signed) J. KEMPSTER.

£27,780: 13: 7

Entd. G. ARGALL.

No. VIII b.—Certificate of Transfer of Stock into Court.

B. v. B.

22nd July 1858.

I do hereby certify that, pursuant to an Order dated the 7th May 1858, R. V. H. have transferred to my account the sum of 1,000*l.*, which I have accepted in trust in this cause, as appears by the Certificate of Mr. Boulton, the proper officer of the Bank of England, dated 16th July 1858, hereto annexed.

(Signed) W. RUSSELL, A.-Gen.

Bank of England, 16th July 1858.

This is to certify that the sum of 1,000*l.* Capital or Joint Stock of Bank 3*l.* per Cent. Annuities was this day transferred by B. and B. to the Accountant-General of the Court of Chancery, N. Smith, Esq. (in trust) to attend the Orders of the said Court in the cause B. v. B.

(Signed) J. BOULT.

No. IX.—Certificate of carrying over of Stock in Court.

M. v. P.

20th August 1860.

I do hereby certify that, pursuant to an Order dated the 17th July 1860, the sum of 666*l.* 13*s.* 4*d.* Reduced Annuities placed to the credit of this cause, J. M.'s Annuity account, has been carried over from thence to the credit of the said cause in the books kept at the Bank (and in my office), as appears by the Certificate of Mr. G. E. Gray, Accountant-General of the Bank of England, dated this day hereto annexed.

(Signed) W. RUSSELL, A.-G.

Bank of England, 1st September 1860.

This is to certify that the sum of 666*l.* 13*s.* 4*d.* Reduced Annuities, which in the books kept at the Bank for the suitors of the Court of Chancery, placed to the credit of M. v. P., J. M.'s Annuity account, is carried over from thence to the credit of the said cause, pursuant to an Order dated 17th July 1860, and to the Certificate of William Russell, Esq., Accountant-General of the said Court, dated 20th August 1860.

Entd. J. FENN.

G. E. GRAY, Acct.-Gen.

No. X.—Transcript of a Suitor's Account from the Ledgers of the Accountant-General.

Dr.				Cr.			
6641.							
B. v. P.							
		CASH.	STOCK.			CASH.	STOCK.
		£ s. d.	£ s. d.			£ s. d.	£ s. d.
1859.				1859.			
Aug. 10	To cash paid C. H.	7,150 0 0	—	June 18	By cash received of C. H. G.	14,208 3 9	—
" 16	To do. for 7,350 <i>l.</i> 3 <i>s.</i> 10 <i>d.</i> Reduced Annuities	7,056 3 9	—	Aug. 16	By Reduced Annuities	—	7,350 3 10
1860.				Oct. 13	By cash received six months interest on 7,350 <i>l.</i> 3 <i>s.</i> 10 <i>d.</i> Reduced Annuities	104 5 7	—
June 1	To Reduced Annuities sold	—	1,047 1 8	1860.			
" 4	To cash carried over to the Suitors' Fee Fund, &c.	16 6 0	—	April 9	By do. do. do.	107 19 0	—
" 8	To cash paid E. W. F. Costs, &c.	592 5 7	—	June 1	By do. for 1,047 <i>l.</i> 1 <i>s.</i> 8 <i>d.</i> Reduced Annuities	886 8 2	—
" 26	To do. defendant Sir H. C. P., Bart.	580 1 2	—				
July 19	To said cause, the account, &c. A. P. B., &c., carried over	—	6,308 2 2				
		15,394 16 6	7,350 3 10			15,394 16 6	7,350 3 10

Transcript of a Suitor's Account from the Ledgers of the Accountant-General—continued.

Dr.		B. v. P.		The account of the Proceeds of the Sale of H. Estate.		Cr.	
		CASH. £ s. d.	STOCK. £ s. d.			CASH. £ s. d.	STOCK. £ s. d.
1859.				1859.			
July 19	To cash paid C. H. - - -	2,194 1 2	—	April 27	By cash received of W. S. G. -	10,910 17 7	—
" 20	To do. Sir C. R. P. - - -	6,469 3 10	—	May 17	By do. do. - - -	212 10 0	—
Aug. 2	To do. for 2,582l. 16s. 2d. Re- duced Annuities - - -	2,460 2 7	—	Aug. 2	By Reduced Annuities - - -	—	2,662 16 2
Nov. 15	To do. for 33l. 10s. 4d. do. -	36 12 10	—	Oct. 13	By cash received six months in- terest on 2,682l. 16s. 2d. Re- duced Annuities - - -	—	—
1860.				Nov. 15	By Reduced Annuities - - -	38 12 10	—
May 9	To do. for 40l. 19s. - do. -	38 9 11	—	1860.			38 10 4
July 19	To said cause. The account, &c. A. P. B., &c. (carried over) -	—	2,662 5 6	April 9	By cash received, six months in- terest on 2,621l. 6s. 6d. do. -	38 9 11	—
				July 19	By Reduced Annuities - - -	—	40 19 0
				May 9			
		11,198 10 4	2,662 5 6			11,198 10 4	2,662 5 6

No. XI.

Return from the Accountant-General of the Court of Chancery, pursuant to the 63rd Section of the Act of 5 Vict. c. 5., showing the state of the several Funds in his name called "The Suitors' Fund" and "The Suitors' Fee Fund," and the charges upon the same respectively.

THE SUITORS' FUND for the Year commencing 2nd October 1859 to the 1st October 1860.

	CASH. £ s. d.	CASH. £ s. d.	CASH. £ s. d.	STOCK. £ s. d.
To Cash paid three Masters' Salaries at 2,500 <i>l.</i> per annum - - -	7,192 14 2		19,902 10 10	3,904,089 15 1 (a)
" Accountant-General's Salary as Master (six months, due 5 Jan. 1860, at 600 <i>l.</i> per annum) -	283 15 0			
" Pensions to retired Masters	11,367 3 9		112,133 9 1	-
" Compensation to Chief Clerks to Masters, pursuant to Act 15 & 16 Vict. c. 80 - - -	1,077 0 7		520 0 0	-
" Ditto to one Chief Clerk to Master, pursuant to Act 10 & 11 Vict. c. 97 - - -	641 13 6			214,165 6 0 (a)
" Ditto to three Junior Clerks to Masters - - -	1,340 4 5	21,902 11 5		
" Salaries to 11 Assistant Clerks to Registrars - - -	- - -	1,063 0 5		
" Pensions to five retired Registrars	9,707 7 1			
" Ditto to Registrar's Bag-bearer -	186 13 8	9,894 0 9		
" Accountant-General's Salary -	861 11 3			
" Expenses of office, office-keeper, water-rate, stationery, &c. -	430 15 9			
" Thirty-five Clerks' Salaries -	8,273 6 2			
" Pensions to three retired Clerks -	2,221 18 2	11,787 11 4		
Officers of the Lord Chancellor's Court:				
" Court-keeper - - -	86 13 0			
" Persons to keep order - - -	231 0 0			
" Tipstaff - - -	101 0 2			
" Clerk in Secretary's Office - -	95 14 7	004 16 9		
Officers of the Lords Justices' Court:				
" Secretaries - - -	676 13 4			
" Ushers - - -	482 16 6			
" Trainbearers - - -	193 2 6			
" Persons to keep order - - -	154 10 0	1,507 2 4		
Officers of Vice-Chancellor Kindersley's Court:				
" Secretary - - -	507 10 0			
" Usher - - -	101 9 2			
" Trainbearer - - -	95 11 7			
" Person to keep order - - -	77 5 0	871 18 9		
Officers of Vice-Chancellor Stuart's Court:				
" Secretary - - -	280 13 9			
" Usher - - -	183 2 6			
" Trainbearer - - -	96 11 3			
" Persons to keep order - - -	138 7 5	717 14 11		
Officers of Vice-Chancellor Wood's Court:				
" Secretary - - -	280 13 9			
" Usher - - -	183 2 6			
" Trainbearer - - -	96 11 3			
" Persons to keep order - - -	154 5 0	733 12 6		
" Assistant Junior Clerks to the Judges - - -	- - -	919 0 0		
" Surveyor's Salary - - -	- - -	77 0 0		
" Solicitor to Suitors, in lieu of costs	1,200 0 0			
" Ditto for Counsel's fees, Insurance and Disbursements	468 11 5	1,663 11 5		
" Compensation to Officers of the Court of Exchequer - - -	- - -	3,841 12 1		
" Ditto to Officers of the Subpena Office, Doorkeeper, Crier, and Usher of the Court, Deputy Secretary of Decrees and Injunctions, and one Clerk in the late Clerk of Accounts' Office - -	- - -	1,678 14 2		
" Expenses of Courts, Registrars' Offices, Masters' Offices, Report and other Offices, for rent, repairs, rates, stationery, coals, candles, gas, servants' wages, &c.	- - -	3,853 6 1		
Cost of Contempt under Sir E. Sugden's Act - - -	- - -	238 0 1		
Total Payments - - -	- - -	61,338 13 0		
Surplus Income carried over to the "Suitors' Fee Fund Account," as directed by the 15 & 16 Vict. c. 87, s. 53.	- - -	51,162 9 3		
	£ 112,501 2 3			
By Balance on the 1st October 1859				
" Dividends received during the year - - -			112,133 9 1	
" Cash received for Rent of Master's Office, pursuant to Act 15 & 16 Vict. c. 80. - - -			520 0 0	
" Stock purchased with Suitors' Cash - - -			- - -	214,165 6 0 (a)
(a) viz. - - -	£2,613,360 4 3			
	214,163 6 0			
Fund A. - - -	£4,627,586 0 3			
Fund B. - - -	1,294,629 5 6			
	£4,119,155 5 9			
Note by Accountant-General.				
[Fund A. consists of—				
Consols - - -	£1,423,364 19 11			
Reduced Annuities - - -	1,404,160 10 9			
	- - -			£2,897,525 10 8
				of which 214,165 <i>l.</i> Co.
				Reduced Annuities
				was purchased
				during the year.
Fund B. consists of—				
Consols - - -	£570,700 16 1			
Reduced Annuities - - -	720,904 3 5			
New 3 per Cent. Annuities - - -	24 6 0			
East India Stock - - -	0 4 11			
	- - -			1,291,629 10 5
				£4,119,155 1 1]
Total Payments and Surplus Interest carried over to the Suitors' Fee Fund Account - - -			132,555 19 11	
Balance 1st October 1860 - - -	£ 20,054 17 8			£4,119,155 1 1

THE SUITORS' FEE FUND ACCOUNT from the 24th November 1859 to the 25th November 1860.

	£	s.	d.	£	s.	d.		£	s.	d.
Officers of the Courts of the Lord Chancellor, Master of the Rolls, and Vice-Chancellors, pursuant to 15 & 16 Vict. c. 87.	-	-	-	7,473	9	3	Cash paid in by the Clerk of the Crown, Clerk of Patents, Pursebearer, Tipstaff, and Messenger, on account of Fees formerly payable to the Lord Chancellor -	946	3	9
Salaries to Eight Senior Clerks, to the Master of the Rolls, and Vice-Chancellors -	11,700	0	6				Cash brought over from various Causes, Matters, and Accounts in lieu of Fees formerly paid at the Taxing Masters -	12,982	4	2
Ditto to Sixteen Junior Clerks to ditto -	4,400	0	0				Cash brought over on account of Per-centages on Income from several Matters and Accounts in Lunacy -	6,549	10	0
Rent of Chambers -	954	6	3	17,054	6	3	Cash paid in by Clerk of Enrolments -	5,102	4	5
Total Court Expenses -							Cash paid in by Clerk of Petty Bag Office -	502	11	0
Compensation to two Masters at 725 <i>l.</i> per annum -	1,450	0	0				Cash paid in for Poundage under the Winding-up Act -	1,429	8	0
Salaries to four Masters' Chief Clerks at 1,000 <i>l.</i> each -	3,421	4	0				Cash paid in by the Commissioners of Inland Revenue, in respect of Money received by them for Chancery Fee Fund Stamps -	60,588	4	7
Ditto, and Compensation to four Masters' Junior Clerks -	2,093	17	11	8,213	1	11	Interest brought over from "Money arising from Sale of the Six Clerks' Office" -	43	6	10
Compensation to one Chief Clerk to Master -	1,250	0	0				Surplus Interest brought over from Suitsors' Funds, under 15 & 16 Vict. c. 87. s. 56. -	51,162	9	3
Total Masters -							Interest brought over from "Monies placed out to provide," &c., under 16 & 16 Vict. c. 87. s. 54. -	5,741	17	4
Salaries to eleven Registrars -	17,150	0	0				Cash paid in by the Accountant-General for Brokerage, under 15 & 16 Vict. c. 87. s. 18. -	4,105	8	6
Allowances for writing to Registrars, and 3 & 4 Will. 4. c. 94. s. 48. and 5 Vict. c. 5. s. 63. -	1,100	0	0				Total Income for the Year ending 25th November 1860 -	159,213	7	10
Salaries to Registrars' Clerks -	6,900	0	0				Deduct Total Payments for the same period -	156,991	14	0
Bag Bearers to Registrars -	300	0	0				Excess of Income over Expenditure for the Year ending 25th November 1860 -	1,221	13	10
Salaries to two Clerks of Entries -	635	0	0	26,085	0	0	Add Balance of Cash on this Account on 24th November 1859 -	83,557	13	8
Total Registrars -							Balance of Cash on this Account on 24th November 1860 -	544,779	7	6
Salary attached to the Office of Master of Reports and Entries, under Act 18 & 19 Vict. c. 134. -	-	-	-	1,000	0	0				
Salaries to two Examiners -	3,000	0	0							
Ditto to two Clerks to ditto -	740	0	0	3,790	19	0				
Compensation to late Examiner -	50	19	0							
Total Examiners -										
Salaries, &c., under 5 & 6 Vict. c. 84. and Lunacy Regulation Act, 1853 :—										
Two Masters in Lunacy, Salaries -	4,000	0	0							
Ditto Travelling Expenses -	1,108	13	0							
Ditto Rent of Premises -	430	10	0							
Ditto Expenses of Offices -	358	6	7							
Ditto Salaries of nine Clerks -	3,500	0	0							
Registrar in Lunacy, Salary -	800	0	0							
Ditto Salaries to four Clerks -	940	0	0							
Compensation to late Commissioners in Lunacy -	375	0	0							
Visitors of Lunatics' Salaries -	1,375	0	0							
Ditto Travelling Expenses -	1,070	6	0							
Ditto Secretary -	300	0	0							
Ditto one Clerk to Secretary -	150	0	0							
Ditto Rent of Premises -	60	0	0							
Ditto Expenses of Office -	124	19	8	14,580	15	3				
Total in Lunacy -										
Compensation to late Clerks of Affidavits Salaries, &c., under 5 & 6 Vict. c. 103 :—	-	-	-	1,306	10	2				
Seven Taxing Masters -	13,972	4	6							
Fourteen Clerks to ditto -	3,395	0	0							
Messenger to ditto -	200	0	0							
Rent of Taxing Masters' Offices -	800	0	0							
Clerk of Enrolments -	1,200	0	0							
Three Clerks to ditto -	750	0	0							
Three Clerks of Records and Writs -	4,200	0	0							
Fifteen Clerks to ditto -	3,762	7	3							
Office Keeper and Messenger to do. -	260	0	0	28,539	11	9				
Clerks and Messengers in Report Office, under 18 & 19 Vict. c. 134. -	-	-	-	1,000	0	0				
Salaries to two Clerks of the Petty Bag Office, under 12 & 13 Vict. c. 110. -	-	-	-	800	0	0				
Accountant-General in lieu of Brokerage, under 15 & 16 Vict. c. 87. s. 18. -	-	-	-	2,700	0	0				
Increased Salary to some of the Accountant-General's Clerks, under 15 & 16 Vict. c. 87. s. 39. -	-	-	-	2,122	9	10				
Compensation to late Clerks of Accounts, under 15 & 16 Vict. c. 87. -	-	-	-	2,900	0	0				
Compensation for loss of Office and Profits, under 5 & 6 Vict. c. 103 :—										
Twenty-one Sworn Clerks and Messenger -	23,700	17	9							
One Agent to ditto -	923	3	4	29,624	1	1				
Copy Money for writing and copying in the Office of the Clerk of Enrolments, the Clerk of Records and Writs, the Registrar in Lunacy, the Clerks of Entries, and the Petty Bag Office -	-	-	-	5,595	14	3				
Expenses of the various Courts and Offices for Stationery, Coals, Candles, Servants' Wages, Rates and Taxes, and for Furniture, &c. -	-	-	-	5,103	15	3				
Total Payments -	-	-	-	156,991	14	0				

ACCOUNT OF MONIES PLACED OUT TO PROVIDE FOR THE OFFICERS OF THE HIGH COURT OF CHANCERY, from the 24th of November 1859 to 25th November 1860.

	CASH.	STOCK.		CASH.	STOCK.	
	£	s.	d.	£	s.	d.
Interest carried over to Suitors' Fee Fund Account, under 15 & 16 Vict. c. 37. s. 54.	5,741	17	4		201,028	2 3
Balance 24th November 1860	-	-	-	5,741	17	4
	£	5,741	17 4	£	5,741	17 4
		201,028	2 3		201,028	2 3

WILLIAM RUSSELL, Accountant-General.

PAY SHEET, or ABSTRACT of PART of ORDER of 23rd March 1861, see page 31.
Jones v. Williams, 1859, J. 24.

FUND IN COURT.

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NOTE.—This fund is subject to the payment directed by Order (reference to it), and is restrained by Order (refer to it).

Signature of Accountant-General's Clerk.

PRELIMINARY DIRECTIONS.

Payments in.

Amount.	By whom to be paid.	On or before what Day.	Title of Account.
£ s. d. 203 11 6	Plaintiff, John Jones -	1 May 1861 - - -	Jones v. Williams.
50 0 0	Defendant, David Williams	1 May 1861 - - -	Jones v. Williams.

CLEARING CHARGES.

Charges.	Amount.	Directions to Accountant-General.		
		NOTE.—These directions are to be satisfied in the first place out of any cash standing to the credit of the account, and in the next place out of the proceeds of the sale of a competent part of the stock standing to the like credit.		
Certified costs, charges, and expenses of Plaintiff.		Pay John Doe - - - - -		
Certified costs of Defendants, John F—r and Margaret his wife.				
Certified costs, charges, and expenses of D. Williams and Ben. B—h.		Pay Rob. Roe - - - - -		
Certified costs of Defendants Cath. B—h and Mary B—h.				
Legacy duty on Fund in Court		Pay Receiver-General of Inland Revenue.		
£ due to Mary B—y -		Carry to credit of this Cause "The Account of Mary B—y, an Infant."—Invest in Consols and accumulate.		
£ due to Ben. W—r H—s		Carry to credit of this Cause "The Account of Ben. W. H—s, an Infant."—Invest in Consols and accumulate.		
£ due to Sarah D—e, deceased.		Pay Mary Ann T—s, Administratrix of Sarah D—e.		
£ due to Margaret L—s, spinster.		Pay her, subject to Duty - - -		
£ due to George E—s -		Pay £169 14s. 1d. and £ for interest on £120 at £5 per cent. from 28th of January 1861 to to Eliz. A. T—s, and residue to Geo. E—s.		

DISTRIBUTION OF RESIDUE.

Proportional Share.	Name of Person entitled.	Deduction, if any.	Date of Apportionment.	Amount.		Directions to Accountant-General.		
				Stock.	Cash.			
	Mary L—s, wife of Rd. L—s.					Carry over to "Account of the share of Mary L—s and her issue." Pay interest during life of Mary L—s on her separate receipt.		
	Wm. B—y -					Pay him		
	Mary Ann T—s, spinster.					Pay her		
	Eliz. R—d, spinster.					Pay her		

No. XII.—Decree for the Distribution of Funds in Court.

MASTER OF THE ROLLS.

MR. ROGERS, Registrar.



Saturday, the 23rd day of March 1861.
Between JOHN JONES — Plaintiff.
DAVID WILLIAMS, BENJAMIN B—H and CATHERINE his Wife, MARY B—H, WILLIAM JOHN F—R, MARGARET his Wife — Defendants.

THIS cause coming on this day for further consideration before this Court, in the presence of counsel for the plaintiff and the defendants, upon hearing the Decree, dated the 4th December 1859, and the Chief Clerk's Certificate, dated the 28th January 1861, an Affidavit of Notice to the several purchasers of this hearing, and the Accountant-General's Certificate [of the fund in Court in this cause] read, This Court doth order that the plaintiff John Jones do, on or before the 1st day of May 1861, pay into the Bank, with the privy of the Accountant-General, to the credit of this cause, 203*l*. 11*s*. 6*d*., appearing by the Chief Clerk's Certificate to be due from him in respect of the testator's personal estate. And it is ordered, that the defendant David Williams do, on or before the said 1st day of May 1861, pay into the Bank, with the like privy, to the like credit, 50*l*., appearing by the said Certificate to be due from him in respect of the said personal estate. And it is ordered, that the costs of the plaintiff and defendants of this suit, as between solicitor and client, including in the costs of the plaintiff and the defendants' solicitors, John G—s and Benjamin B—s, any charges and expenses properly incurred by them as the testator's executors, not costs in the cause, be taxed by the Taxing Master. And it is ordered, that so much of the 7,836*l*. 17*s*. 2*d*. Bank 3*l*. per Cent. Annuities, standing in the name of the said Accountant-General, in trust in this cause, as, with the said 203*l*. 11*s*. 6*d*., and 50*l*., and 587*l*. 11*s*. 2*d*. cash, in the Bank, in the like credit, and any interest to accrue on the said Annuities, will raise the said costs and charges and expenses, and what shall be verified by affidavit to be the total of the several amounts set opposite to the several persons named in the 2nd Schedule to the said Certificate, in respect of their legacies certified to be due to them, and subsequent interest on the said legacies, at the rate they respectively carry interest, from the 28th January 1861 to the day of payment, after deducting 129*l*. 4*s*. 7*d*., mentioned in the said 2nd Schedule, and subsequent interest on the principal sum of 88*l*. 12*s*. 2*d*., at the rate of 5*l*. per cent. per annum, from the said 28th January 1861 to the day of payment of the said legacies, from the amount that will be due to George E—s, named in the said 2nd Schedule in respect of his legacy and interest, and subsequent interest, and what shall be assessed and verified by affidavit as the duty payable in respect of the said Annuities and cash, be sold, and that out of the money to arise by the said sale and the said 203*l*. 11*s*. 6*d*., and 50*l*., and the said 587*l*. 11*s*. 2*d*. and interest, the said costs and charges and expenses of the said duty be paid in manner following, that is to say :—The costs and charges and expenses of the plaintiff, and the costs of the defendants John F—r and Margaret his wife, to Mr. John Doe, their solicitor; the costs and charges and expenses of the defendants David Williams and Benjamin B—h, and the costs of the defendants Catherine B—h and Mary B—h, to Mr. Robert Roe, their solicitor; and the said duty to Mr. James Brotherton, the Receiver-General of Inland Revenue. And that thereafter, in the next place, what shall be respectively verified to be due to the said legatees as aforesaid be respectively carried over, invested, and paid in manner following, that is to say :—1. What shall be due to Mary B—y, an infant, named in the said 2nd Schedule, be carried to the credit of this cause, "The Account of Mary B—y, an infant;" and that the same be invested in Bank 3*l*. per Cent. Annuities in the name of the Accountant-General on the like trust, and that the interest to accrue thereon, and all accumulations of interest, be invested in like manner. 2. What shall be due to Benjamin W—r H—s, an infant, named in the said Schedule, be carried over to the credit of this cause, "The Account of Benjamin W—r H—s, an infant;" and that the same be invested in Bank 3*l*. per Cent. Annuities in the name of the said Accountant-General on the like trust, and that the interest to accrue thereon, and all accumulations of interest, be invested in like manner. 3. What shall be due to Sarah D—e, deceased, named in the said 2nd Schedule, be paid to Mary Anne T—s, spinster, also named in the said 2nd Schedule as the administratrix of the said Sarah D—e, deceased; and what shall be due to Margaret L—s, spinster, named in the said 2nd Schedule, be paid to the said Margaret L—s, spinster; and that out of what

shall be due to the said George E—s, 163*l*. 14*s*. 1*d*., and subsequent interest on the principal sum of 120*l*., at the rate of 5 per cent. per annum, from the said 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit] be paid to Elizabeth Anne T—s, spinster, named in the said 2nd Schedule, in discharge of her mortgage therein mentioned, and that the residue thereof [to be verified by affidavit], be paid to the said George E—s; And it is ordered, that the residue of the said Bank Annuities (excepting 400*l*. of such Annuities) be apportioned amongst the several residuary legatees named in the said Certificate and the Will of the said testator, according to their rights and interests therein; and in making such apportionment regard is to be had to the debts due from such residuary legatees respectively to the testator, and interest thereon to the date of the apportionment, as mentioned in the 3rd Schedule to the said Certificate, and subsequent interest to be computed thereon, and that so much of the said Annuities as shall be certified the apportioned share of Mary L—s, the wife of Richard L—s, in the said Certificate respectively named, and the interest to accrue thereon previously to the carrying over herein-after directed, be carried over in trust in and to the credit of this cause, "The Account of the share of Mary L—s and her issue;" and that such interest and the interest to accrue thereon during the life of the said Mary L—s be paid to the said Mary L—s on her separate receipt, and that any parties interested in the said Annuities, on the death of the said Mary L—s, are to be at liberty to apply in Chambers as they may be advised; and that so much of the said Annuities to be certified the respective apportioned shares of William B—y, Mary Ann T—s, spinster, and Elizabeth R—d, spinster, respectively named in the said Certificate, and the interest to accrue thereon previously to the transfers hereby directed, be respectively transferred and paid to them; and that so much of the said Annuities to be certified as the share of Joseph S—h, Mary Ann T—d, Thomas S—h, Sarah P—s, and John S—h, the children of John S—h, deceased, and any interest to accrue thereon previously to the transfer hereby directed be respectively transferred and paid to Joseph S—h and John S—w, as assignees thereof under the Indenture of the 27th day of July 1854 mentioned in the first part of the 1st Schedule to the said Certificate; and that so much of the said Annuities to be certified as the share of Mary B—h, spinster, and the interest to accrue thereon previously to the transfer hereby directed, be transferred and paid to the said Mary B—h, spinster; and that so much of the said Annuities to be certified as the share of George B—h, in the first part of the 1st Schedule named be sold, and that the money to arise by such sale, and the interest to accrue on the said Annuities previously to such sale, be paid to Joseph S—w, the assignee thereof under the Indenture of the 6th June 1854 mentioned in the first part of the said 1st Schedule; and that so much of the said Annuities to be certified as the apportioned share of John B—h, in the second part of the said 1st Schedule named, be sold, and that out of the money to arise by such sale, and the interest to accrue thereon previously to the said sale, 346*l*. 8*s*. 8*d*., certified by the second part of the said 1st Schedule to be due to William W—e, for principal and interest, as mortgagee of the said share, and subsequent interest, at the rate of 5*l*. per cent. per annum, on the principal sum of 330*l*. from the 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said William W—e, in discharge of his said mortgage, and that the residue of the said money and interest [the amount thereof to be verified by affidavit] be paid to the said John B—h; and that so much (if any) of the said Annuities to be certified as the share of Richard B—h, in the first part of the 1st Schedule named, be sold, and that the money to arise by such sale, and the interest to accrue thereon previously to the said sale, be paid to Joseph S—w, in part discharge of his said incumbrance in the second column of the first part of the said 1st Schedule mentioned; and that so much of the said Annuities to be certified as the apportioned share of Joseph B—h, named in the second part of the said 1st Schedule be sold; and that out of the money to arise by the said sale, and the interest to accrue on the said Annuities previously to the said sale, 73*l*. 14*s*. 2*d*. appearing by the said second part of the said 1st Schedule to be due to Charles W—n and John Henry O—s therein named, for principal and interest, as mortgagees of such share, and subsequent interest on the principal sum of 70*l*., at the rate of 5*l*. per cent. per annum, from the said 2nd January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said Charles W—n and John Henry O—s, and that the residue of the said money and interest [the amount thereof to be verified by affidavit] be paid to the said Joseph B—n; and that so much of the said Annuities to be certified as the apportioned share of Elizabeth H—s, the

wife of John H—s, named in the said second part of the said 1st Schedule, be sold, and that out of the money to arise by such sale, and the interest to accrue on the said Annuities previously to such sale, 213*l.* 0*s.* 11*d.* being a moiety of the 426*l.* 1*s.* 10*d.* appearing by the said second part of the said 1st Schedule to be due to William W—e and Thomas W—e therein named for principal and interest, as mortgagees of such share, and of the share of Mary W—r therein named, and subsequent interest on the principal sum of 200*l.*, at the rate of 5*l.* per cent. per annum, from the said 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said William W—e, and Thomas W—e, in discharge of the said Elizabeth H—s's share of the said mortgage; but in case the said money and interest be insufficient for that purpose, then that the whole thereof be paid to the said William W—e and Thomas W—e, in part discharge of the said Elizabeth H—s's share of the said mortgage; but in case the said money and interest be more than sufficient for that purpose, then that the residue thereof [the amount to be verified by affidavit] be paid to the said Elizabeth H—s, on her separate receipt; and that so much of the said Annuities to be certified as the apportioned share of Mary W—r, in the second part of the said 1st Schedule named be sold, and that out of the money to arise by such sale, and the interest to accrue on the said Annuities previously to such sale, 213*l.* 0*s.* 11*d.* appearing by the said second part of the said 1st Schedule to be the other moiety of the said 426*l.* 1*s.* 10*d.* to be due to the said William W—e and Thomas W—e, as such mortgagees as aforesaid, for principal and interest, and subsequent interest on the principal sum of 200*l.*, at the rate of 5*l.* per cent. per annum, from the said 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said William W—e and Thomas W—e, and that the residue of the said money and interest [to be verified by affidavit] be paid to the said Mary W—r, spinster, and that so much of the said Annuities to be certified as the apportioned share of Frances B—h, deceased, in the said second part of the said 1st Schedule named be sold, and that out of the money to arise by such sale of the interest to accrue on the said Annuities previously to such sale, 115*l.* 8*s.* 5*d.* being one part of the 230*l.* 16*s.* 6*d.* appearing by the said second part of the said 1st Schedule to be due to the said Charles W—n and John Henry O—s, as mortgagees of such share and of the

share of the defendant Catherine B—h, for principal and interest, and subsequent interest on the principal sum of 100*l.*, at the rate of 5*l.* per cent. per annum from the said 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said Charles W—n and John Henry O—s, in discharge of the said Frances B—h's share of the said mortgage, and that the residue of the said money and interest [to be verified by affidavit] be paid to the defendant Benjamin B—h, the executor of the said Frances B—h, deceased; and that so much of the said Annuities, to be certified as the apportioned share of the defendant Catherine B—h, the wife of the defendant Benjamin B—h, be sold, and that out of the money to arise by such sale, and the interest to accrue on the said Annuities previously to such sale, 115*l.* 8*s.* 3*d.* being the other moiety of the said 230*l.* 16*s.* 6*d.* so appearing to be due to the said Charles W—n and John Henry O—s, as such mortgagees as aforesaid, for principal and interest, and subsequent interest on the principal sum of 100*l.*, at the rate of 5*l.* per cent. per annum, from the said 28th January 1861 to the day of payment [the amount thereof to be verified by affidavit], be paid to the said Charles W—n and John Henry O—s in discharge of the said Catherine B—h's share of the said mortgage, and that the residue of the said money and interest [the amount thereof to be verified by affidavit] be paid to the said defendant Catherine B—h on her separate receipt; and that so much of the said Annuities to be certified as the apportioned share of the said Sarah B—h, and the interest to accrue thereon previously to the transfer hereby directed, be transferred and paid to the said Sarah B—h, spinster; and that so much of the said Annuities to be certified as the apportioned share of the said Catherine D—s, the wife of the said Thomas D—s, and the interest to accrue due thereon previously to the transfer hereby directed, be transferred and paid to the said Catherine D—s on her separate receipt; and that so much of the said Annuities to be certified as the apportioned share of the said defendant Margaret F—r, the wife of the defendant William John F—r, be sold, and that the monies to arise by such sale, and the interest to accrue thereon previously to the said sale, be paid to the said defendant Mary F—r on her separate receipt; and any of the parties are to be at liberty to apply in Chambers as there shall be occasion.

P. W. R.

Ent^d E. R.

(L.S.)

No. III.

STATEMENT tendered in Evidence on the Part of the ACCOUNTANT-GENERAL of the COURT OF CHANCERY as to the Constitution of his Department of the Court, and of the Forms of Business in use therein.

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1. The office of Accountant-General of the Court of Chancery was instituted in 1726 by the Act 12 George I. cap. 32, for the purpose of "doing all such matters and things relating to the delivery of the suitors' money and effects into the Bank, and taking them out of the Bank, and the keeping the accounts with the Bank, and all other matters relating thereto, as in and by the orders recited in the same Act had been directed to be done by the masters and usher of the court." Previously to the institution of the office the money and effects of the suitors were deposited with the masters, but owing to the inability of some of them to obey the orders of the court with respect to such money and effects, an inquiry was directed. A considerable deficiency was discovered, and for the

future each master was ordered to keep the suitors' money and effects deposited with him in a chest at the Bank of England. A plan was also devised by which such chests were not to be opened except in the presence of two other persons besides the master to whom the chest belonged. The necessity of having so many persons present at every opening of the masters' chests was found to be very inconvenient, and an order was made (26 May 1725) which directed that the money and effects of the suitors should be taken from the chests and given into the custody of the Bank. An account was to be kept at the Bank and also at the Report Office *causewise*, and every dealing with the suitors' money was to be certified to the Report Office. By another order (4 November 1725) the plan was extended

to the usher of the Court. These two orders are embodied in the before-mentioned Act, under which on the 29th June 1726 the first Accountant-General was appointed. An account is directed to be kept in his name with the Bank of England in the same manner as directed by the said orders; and the rules, methods, and directions therein prescribed are to be observed. The business of the office is therefore to issue such cheques, directions, and certificates as may be necessary to enable the Bank of England to carry into effect the provisions of the various orders of the Court with respect to the suitors' money and effects, and also to keep such correct accounts of the transactions which have taken place in each individual cause and matter that the Court may be at any time informed of the exact amount of the money and effects belonging to it, and may thus be able to make such orders as may be necessary for the disposal of them.

2. The number of distinct and separate accounts in the Accountant-General's books in 1726 was 415, and involved the sum of 152,037*l.* 4*s.* 6*d.* cash, and 589,553*l.* 14*s.* stocks and securities; on the 1st October 1860, the number of accounts was 22,757, having upon them the sum of 2,821,067*l.* 8*s.* 8*d.* cash, and 51,709,106*l.* 7*s.* 11*d.* stocks and securities. The progressive increase of the number of accounts in the Accountant-General's books, and of the amount of the funds standing in his name on the 1st of October of each year from 1726 to 1859 will be found stated in the report of the Commissioners on the proposed Concentration of the Courts (pages 105 to 107 inclusive).

3. For each of the 22,757 accounts there is a separate opening in the ledgers of the office; they are kept as distinct as a banker would keep the accounts of his customers, and every transaction must have reference to and be recorded in some one or other of these accounts. They are headed with the short title of the cause or matter to which they belong, and every order dealing with funds in court must describe them as standing to the credit of the account exactly as it is entitled in the Accountant-General's books. A counterpart of each of these accounts is contained in the ledgers kept at the Chancery Office of the Bank of England, and every cheque or certificate issued from the office of the Accountant-General contains either the whole title of the account to which it relates, or such an abbreviation of the title as can only belong to that particular account, in order that the Bank may enter the transaction properly in their books, and so that the balance of stock and cash on the various accounts in the books of the Chancery Office at the Bank may correspond with those of the Accountant-General.

4. The Accountant-General is prohibited by the before-mentioned Act of Parliament from meddling with the actual receipt of any of the money or effects of the suitors; they are to be delivered to the Bank of England. The cash forms one common and general cash for the Accountant-General to draw upon, and the various stocks stand in his name in trust to attend the orders of the Court. The payment of the Accountant-General's cheques and the various dealings with the stocks and securities standing in his name there form part of the general business of the Bank of England, but the necessity (imposed by the Act of Parliament) of entering every transaction to the proper account at the Chancery Office at the Bank makes it necessary that the cheques and certificates authorizing such payments and dealings should be previously examined at that office, in order that it may be known that there is cash and stock enough to the credit of the particular account to enable such payment or transfer to take place. The keeping the accounts in this manner at the Bank of England has contributed very much to the accuracy of the Accountant-General's Office, and if it be borne in mind that, in order to do so, it is absolutely essential to inform the Bank of every transaction in relation to the particular account to which it has reference, it may explain some things in the practice of the office which might otherwise appear mere useless routine.

5. For the better dispatch of the business of the office it is divided into four divisions, each of the divisions having a portion of the above-mentioned 22,757 accounts regulated according to the letters of the alphabet. Thus, in the 1st division are the accounts of all causes and matters of which the plaintiff's name in a cause or the first substantive word in a matter, begins with either of the letters A. to C. In the 2nd division are those from D. to J.; in the 3rd from K. to Q.; and in the 4th from R. to Z. Each division has a principal or 1st clerk, and a 2nd, 3rd, 4th, 5th, 6th, 7th, and 8th clerk, and the work is so distributed among them that to the same seat in each division the same duties are assigned. Owing to the suitors' fund and suitors' fee fund accounts, which occasion a great number of payments for salaries, compensations, &c., being kept in the 4th

division, an additional or 9th clerk is attached to it, and the arrangement of the duties is somewhat, although in the upper seats not materially, different from that of the other divisions.

6. The first four clerks in each division attend upon the public, taking in from them the orders of the Court and other documents, such as certificates of the judges' chief clerks and of the taxing masters, which may be necessary to authorize the various operations required to be performed. They also make out the cheques and certificates which are requisite to carry out these operations, and they deliver the cheques to the persons entitled to receive them. There is a standing order book in each division in which is a detailed statement of the work, signed by the Accountant-General, showing precisely what duties belong to each seat; so that each clerk may know exactly what part of the work he has to do (a copy of this statement is appended). It is so arranged that each of the first four clerks does (at least as regards the public) the whole of some kind of work prominently characteristic of his seat, and much trouble is thereby saved to the public as well as to the office. Thus the principal clerk takes in the orders for and delivers to the parties all the cheques for principal money. The second clerk takes in orders for the sale and transfer out of court of stock, for payments of interest money and first payment of regular dividend drafts, and for carryings over of funds from one account to another, and requests for powers of attorney. The third clerk pays all the regular dividend drafts after the first payment, and the fourth clerk takes in orders for purchases of stock, and for directions to pay in cash, and also answers such questions as to the past or present state of any account as the ledgers in use enable him to do. The work of the remaining four clerks in each division is chiefly, though not entirely, confined to keeping the accounts. There is also among these some kind of duty peculiarly distinctive of each seat. Thus, the fifth clerk keeps the ledgers, the sixth the receipt journal, the seventh the payment journal, and the eighth the direction book. They also make out transcripts of the accounts and certificates of fund when required for the information of the Court, and certificates of the various transactions having taken place to be filed at the Report Office as directed by the Act of Parliament under which the office is established.

7. The standing order book also contains such rules and regulations of the Accountant-General and his predecessors as experience has shown to be best to adopt in carrying on the business of the office. The time of the attendance of the clerks is fixed and a time-book kept in each division, in which each clerk daily signs his name. These books are marked by the chief clerk every morning, so as to show whether any clerk is absent at the time fixed for his attendance, and the books are then laid before the Accountant-General. The fact of the absence of any clerk from his duties is thus necessarily brought before him, and he is enabled to make inquiries respecting the cause of such absence, and to give what directions he may think fit.

8. The principal clerk in each division, in addition to his other duties, exercises a general superintendence and control over his division, and is expected to see that the work is efficiently performed. Both he and the second clerk of each division daily attend upon the Accountant-General with the cheques and other papers which require his signature. There are therefore ample opportunities of bringing under his notice anything which may occur in the shape of complaint on the part of the public as to the operation of particular rules of the office, and of taking his directions as to dispensing with such rules under the circumstances of the particular case.

9. The first or chief clerk of the office has a department to himself not attached to any particular division, but in connexion with the whole of them. He is assisted by one of the junior clerks. The whole establishment therefore consists of 35 clerks, viz., eight in each of three of the divisions, nine in the remaining division, and two in the chief clerk's room. Their salaries are as under:—

	£
The chief clerk and the four principal clerks	800 each.
The four second clerks	510 "
The four third clerks	340 "
The four fourth clerks	250 "
The four fifth clerks	190 "
The four sixth clerks	150 "
The four seventh clerks	120 "
And the remaining six clerks	100 "

No fee or gratuity of any kind is allowed to be taken in the office, the clerks being prohibited from doing so by the Act 15 & 16 Vict. c. 87. s. 3.

10. The present Accountant-General's salary as recently regulated by Act of Parliament is 4,200*l.* a year. Previously to the passing of the 15 & 16 Vict. c. 87. he received a

salary of 1,500*l.* a year (viz., 600*l.* as one of the Masters of the Court, and 900*l.* as the Accountant-General), and three-fifths of the brokerage on all purchases and sales of stock in his office. By the last-mentioned Act the brokerage to be received by the Accountant-General is directed to be paid into court to the credit of the suitors' fee fund account: this is effected by the Accountant-General's signing from time to time a direction for the broker to pay in to the fee fund account such sums as he states to be in his hands in respect of such three-fifths. In lieu of such brokerage the yearly salary of 2,700*l.* is directed to be paid to the Accountant-General. The amount which has been paid into court in respect of such three-fifths for the eight years from October 1852, when the Act came into operation, to October 1860 is 31,012*l.* 19*s.* 9*d.* being upon the average 3,876*l.* 12*s.* 5*d.* a year. The Accountant-General has no deputy. Every cheque or other document requiring his signature must be signed by him personally, he having no power to authorize any one to act for him. The Accountant-General's attendance is therefore of necessity daily, excepting during vacations.

11. The operations which have to be performed with reference to the suitors' money and effects may be conveniently arranged in the following order:—

- Paying money and transferring stock into court;
- Carrying over from one account to another and purchasing and selling stock;
- Transferring stock and paying money out of court.

12. The process in detail in each of these operations is as under:—

1st. *Payment of Money into Court.*

13. This may be done either under the authority of an order of the Court or of an Act of Parliament, such as the Lands Clauses Act and the various Railway and Public Improvement Acts, Burial Acts, Estate Acts, the Infant Legatees Act, the Trustees Relief Act, the Copyhold Acts, and the Parliamentary Deposits Act. If it be a payment in under an order of the Court, no request of the solicitor is required, but the order itself or an official copy of it is left, and also such other papers, as certificates of the judge's clerk and affidavits, as may be necessary to ascertain the amount, if it be not specified in the order. If the payment in be under an Act of Parliament, a request from the solicitor is required, except in one or two cases in which some other evidence is directed to be taken by the Act itself. The request must set forth the name of the person to pay in, the amount to be paid in, the title of the account to which it is to be placed and such other particulars as may be necessary to show that the case comes within the Act. The necessary papers having been left at the office, the clerk whose duty it is, proceeds to fill up a "direction to pay in," (Form A 1.), specifying the date of the order and other papers if any, or title of the Act; the sum to be paid in, the person to pay in the same, and the title of the cause, matter, or account to the credit of which it is to be placed. This direction is examined by another clerk, and entered in a book called the direction book, and the folio of the book where the entry is made, put at the top of the "direction." The order or act and other papers, if any, are taken with the direction to the Accountant-General by the second clerk, and the papers so far as they affect the payment in are read over, the Accountant-General signs the direction, and it is then laid by to await the solicitor's application for it. Upon lodging this direction at the General Cash Book Office of the Bank of England the proper officer there receives the money and gives a receipt for it. This receipt has afterwards to be signed by a cashier, and upon it is an intimation that it is to be taken to the Accountant-General's office immediately. The direction is retained by the Bank and sent into the Chancery Office there, in order that an entry of the receipt of the money may be made and the proper account credited therewith.

14. As soon as the receipt is lodged at the Accountant-General's Office a certificate of the money having been paid in (Form A 2.) referring to the receipt as the authority is annexed to it; these are compared and laid before the Accountant-General, and the certificate is signed by him. The certificate, with the receipt annexed, is filed at the Report Office, and thus becomes an official record of the payment into court. The date of the payment in, the name of the cashier, and the date of filing are entered in the margin of the direction book opposite the entry of the direction. The giving credit in the proper account for the money paid in does not at all depend upon the receipt reaching the Accountant-General's Office. In the afternoon of every day a paper technically called "the slip" is brought by one of the Bank messengers, containing an account of the several amounts paid in during the day, the titles of the

various accounts in an abbreviated form, and the reference to the page of the direction book copied from the direction. By referring to the entry thus indicated the clerk who keeps the journal is able to ascertain all the particulars of the payment in so as to make the necessary entry of it as a cash receipt, and this is afterwards credited to the proper account in the ledger. It may here be stated that as a rule the posting of any transaction in the ledger is always made during the day succeeding that on which it takes place. The ledger and journal are carefully compared daily as soon as the posting is completed.

15. Deposits of Exchequer bills and bonds, or of boxes containing any tangible security, also require a direction from the Accountant-General, and the process gone through is exactly similar to that which has just been described.

2nd. *Transfer of Stock into Court.*

16. This is done under the authority either of an order of the Court, or of the Trustee Relief Act, or of the Act for making deposits on applications to Parliament for Railway &c. Acts. The process gone through is as follows:—The order or such other documents as may be required are left with the chief clerk. A ticket (Form B 1.) is drawn and signed by him stating the names of the parties to make the transfer, the amount, and description of the stock, and the title of the cause, matter, or account to which it is to be placed. The ticket and the order and other papers (if any) are then sent to the proper division of the office to which the cause, matter, or account will belong, and a certificate (Form B 2) is there made out containing all the particulars which are in the transfer ticket, and in addition, the date of the order and other papers, if any, or the title of the Act, under which the transfer is to be made. The transfer ticket is given to the solicitor upon his applying for it. It is taken by him to a stockbroker, who makes the necessary arrangements for transferring the stock into the name of the Accountant-General. The Accountant-General attends at the Bank of England or other place where the stock is transferred, and signs the book in which the acceptance of the stock is entered, and also a notification (Form B 3.) addressed to the Chief Accountant of the Bank of England of his having made the acceptance, of the amount and description of the stock accepted, and the title of the cause, matter, or account to which it is to be placed. This notification is taken to the Chancery Office at the Bank, and forms the authority for entering the amount accepted to the proper account there. A certificate of the amount so transferred in and accepted, signed by the proper officer is sent up the same evening to the Accountant-General's Office. This certificate is annexed to the one taken as above mentioned previously to the transfer ticket being given to the solicitor. An entry is made in the journal of the transaction and credit given to the proper account in the ledger. The two certificates are examined by the chief clerk, laid before the Accountant-General for his signature to the one made in his office, and are afterwards filed at the Report Office.

17. It may be as well to observe that unless the notification above mentioned were sent to the Chancery Office of the Bank of England, there would be no entry there of the stock having been transferred in. It would merely stand to the Accountant-General's credit as a stockholder "in trust to attend the orders of the Court," and the total amount of the particular stock in court would appear from the books of the Chancery Office to be different from what it really was. It is understood that the balances of the different stocks appearing to be in court at the Bank Chancery Office are compared once a week with those actually in the Accountant-General's name in the books of the different stock offices, and any difference that may appear is immediately inquired into.

3rd. *Carryings over from one Account to another.*

18. These are the removal of the whole or part of a fund standing to one or more causes or accounts in the books of the Accountant-General to one or more other causes or accounts. They are made on the production by the solicitor of the order directing the transaction, and such other papers, if any, as may be necessary to verify the amount to be carried over.

19. The clerk receiving these papers prepares a certificate (Form C 1) stating the dates thereof, the sum or sums of money or stock to be carried over, and the causes or accounts from and to which such money or stock is to be carried over. He compares this with the ledger account from which the carrying over is to be made as to sums, title of account, and previous appropriation of the fund (if any), and also takes care to see whether the account to which the carrying over is to be made is already open or not, in order that if there be only a slight difference in the

title the solicitor may be consulted as to whether the Court intended a new account to be opened, and if it did not, he is requested to see the Registrar upon the subject. When this question is settled the certificate with the order, &c., is passed to another clerk for examination and then laid before the Accountant-General for signature. The papers so far as they relate to the carrying over are read over to him and he signs the direction for it, and also puts his initials to the sums to be carried over drawn out in the margin of the order. The copy of the order so marked with his initials in respect of this and other transactions under it forms a sort of record of what has been done in pursuance of the order from time to time. The certificate is then entered in the direction book dated for the next day, and then sent to the Chancery Office at the Bank. The proper entries are made in the books there, and a certificate signed by the proper officer of the carrying over having been effected is sent to the Accountant-General's Office. Another certificate (Form C 2.) for the Accountant-General to sign is then made out and annexed to the Bank certificate. The two certificates are taken to the chief clerk, compared by him, and laid before the Accountant-General for his signature to the one prepared in his office. They are then filed at the Report Office. An entry is made in the margin of the direction book of the name of the officer signing the bank certificate and the date of filing. The transaction is journalized from the entry in the direction book, and then posted in the ledger as a debit to the account from which, and a credit to that to which, the carrying over is made and the whole operation is complete.

4th. Purchases of Stock.

20. Investments of money in the purchase of stock are made by the Accountant-General in obedience to orders of Court at the written request of a solicitor. Money is also invested without request if paid in under the Act 36 Geo. III. (the Infant Legatees Act), pursuant to provisions contained in the Act itself, and also when paid in under the Trustees Relief Act (provided there be no request to the contrary in the affidavit which is necessary under the latter Act) pursuant to a general order of the Court. The dividends arising from the stock purchased under both these Acts are laid out from time to time by the Accountant-General without any request from the solicitor, pursuant to general orders of the Court made in May 1852, and the dividends arising from stock purchased under an order of the Court are also laid out from time to time, when there is a direction to do so in the order, without the request of the solicitor, if on bespeaking the investment of the principal money he adds some words to express that he wishes the dividends as they accrue to be invested.

21. If the investment be one that requires bespeaking, the solicitor leaves with the Accountant-General's clerk the order directing it and such other papers as may be required to verify the amount; such as a certificate of the judge's clerk or of the taxing master, or an affidavit, and also a request (Form D 1.), stating the amount of cash to be invested, the cause or account on which it stands, the description of stock to be bought, and the title of the cause or account to which the stock when bought is to be placed. This request is carefully examined with the order and ledger; and the amount of cash, the description of stock, and the cause or account to which the stock is to be placed are written down as a commission for the broker. A cheque is then drawn, entitled in the cause or account on which the cash stands, and made payable to the broker "on his causing" the stock to be transferred to the Accountant-General's account, in trust in the cause or account to which the stock is directed by the order to be placed. The order and other papers, with the request and cheque, are handed to another clerk for examination and the commission is given to the broker the next morning. The broker sends up in the afternoon a contract note for the next stock-day, which will not be less than two or more than six days from the day that the commission is given. This note contains the title of the cause or account as given in the commission paper, the amount and description of stock purchased, the price and brokerage, and amount of cash invested, and the date for which the investment is made. The note is carefully checked as to the calculations and examined with the request. The amount of stock is filled into a blank left for it in the purchase cheque, and the whole of the papers are handed to the second clerk, who takes them to the Accountant-General and puts the cheque before him for signature. The part of the order directing the investment is read over to him; he signs the cheque and puts his initials in the margin of the order or certificate against the amount to be invested. The cheque and order are then taken to the Registrar, who countersigns the cheque and puts his initials also in the margin of the

order or certificate. An entry is made of the cheque in the purchase receipt book, under the date for which the purchase is made, for the broker to sign by way of receipt, and the cheque is sent to the broker on the afternoon of the day before the day the purchase is made for, or given to him on the morning of that day. The contract note is taken to the chief clerk and the title of the cause or account and the amount and description of the stock purchased entered upon a list (Form D 2.), which is a notification addressed to the chief accountant of the Bank of England of the several amounts of stock accepted arising from purchases. The Accountant-General attends at the Transfer Office and signs an acceptance of the stock, at the same time comparing the amount and the title of the cause or account with the entry on the list. When all the sums so entered have been accepted the list is signed by the Accountant-General, and is then taken to the Bank Chancery Office, and forms the authority there for crediting the various accounts with the sums which have been purchased. The cheque for the money has in the meantime been taken by the broker to the Bank Chancery Office for examination. If there be sufficient cash on the account out of which it is drawn, it is marked with the initials of a clerk there, and is then endorsed by the broker and taken to the General Cash Book Office, together with the stock receipt, showing that the stock for which the money is expressed to be paid has been transferred to the Accountant-General's account in trust as mentioned in the cheque. The condition of the cheque having been thus satisfied, it is cashed and an intimation to that effect put upon the Bank "slip". of cash paid during the day. The cheque goes into the Bank Chancery Office again the next morning, and an entry of the cash paid is made from it, and the account out of which it is drawn debited therewith. A certificate of the stock having been transferred to the Accountant-General is sent to his office, and another certificate (Form D 3.), containing full particulars of the purchase and the authority under which it is done, is annexed to it. The latter certificate is examined by the chief clerk with the broker's note, the Accountant-General affixes his signature, and the certificates are filed at the Report Office. An entry of the particulars of the contract note of the purchase is made in the direction book under the date of the day it is done for. From this entry it is journalized in the receipt journal, and from the journal entry the account in the ledger is credited with the stock. From the entry, in the purchase receipt book, of the cheque given to the broker, the payment of the cash for the stock is entered in the cash payment journal, and the ledger account is debited with the amount so paid.

22. The investment of dividends without request under the General Orders of May 1852 and June 1853 has very much increased the business of the office, and must have proved highly beneficial to the suitors. Formerly dividends were not invested until they amounted to 40*l.*, as the interest arising from the investment under that sum would not be sufficient to pay the expense of the investment. Now, however, the limit is reduced to 3*l.* 10*s.*, as the only expense is the brokerage, and the half-year's dividend on the stock purchased with that amount is just sufficient to meet the usual charge of one shilling for investing small sums. Books are kept containing the titles of those accounts on which the dividends are to be invested without request, and also such particulars as are necessary, in the absence of the order, to draw the purchase cheques for the broker. These cheques are drawn as soon after the dividend is received as the business of the office will permit; they are carefully examined with the ledger accounts, and a list is made out from them of the titles of the causes and accounts, the amount to be invested in each case, and the description of stock to be bought, as a commission paper for the broker. The rest of the process is as above described in the case of bespoken purchases, except that there is no order to be read to the Accountant-General. These regular investments now amount in number to more than 3,000 yearly.

5th. Sales of Stock.

23. Sales are made upon the production by the solicitor of an order of the Court and a certificate of the Registrar, stating the amount of the stock to be sold or of the money to be raised, and frequently also certificates of the judges' clerks and of the taxing masters, and affidavits are required.

24. When a given sum of money is to be raised or a sum of stock to be sold, which sum is defined in the order, the case is comparatively simple. But if, as more frequently occurs, such a sum is to be raised as either alone or with a given sum is sufficient to pay one or more sums to be ascertained by certificates or affidavits, or where the execution of certain deeds is the condition of sale, the transaction involves considerable care in the examination and responsibility in the

execution. The process gone through is, however, uniform, and is as follows :—The solicitor produces the order and other necessary papers and the certificate of the Registrar to one of the Accountant-General's clerks, who ascertains that there is a proper direction in the order to make the sale, and that the Registrar's certificate is drawn according to it and such other papers. He checks what calculations there may be, and makes up in the margin of the certificate a statement of the amount of stock to be sold or of the money to be raised. He then examines the papers with the account in the ledger as to title of account, amount, and description of stock, and ascertains that no previous appropriation of the stock has been made, and makes a memorandum on the account that a sale has been bespoken. The title of the account, description of stock, and amount to be sold or of money to be raised, as the case may be, are then entered on the commission paper for the broker to whom the Registrar's certificate is read on his attending at the office on the following morning. The Registrar's certificate is taken by him to the Chancery Office of the Bank for examination as to what amount of stock of the kind directed to be sold is standing on the cause or account mentioned in the certificate in the books kept there. The amount of stock is marked in the margin of the certificate with the initials of the clerk, and any difference there may be between the title of the account as it is expressed in the certificate and as it is in the Bank books is noted. The certificate is returned to the broker, and if he finds that the amount of stock so marked is sufficient to answer the commission given to him, he proceeds to make the sale. The contract note, which, as in the case of a purchase, is for a future day, is sent with the Registrar's certificate to the Accountant-General's office. It is there checked, and if correct is handed over with the certificate and order, and whatever other papers were left when the sale was bespoken, to the principal clerk. He writes in the margin of the order, opposite the direction to sell, a memorandum of the amount of stock sold and the money produced by the sale. The contract note and Registrar's certificate are then taken to the chief clerk, and a certificate (Form E 1.) is made out in the nature of a notification to the Bank Chancery Office of the amount and description of stock sold, the dates of the order and other papers, the name of the Registrar signing the certificate, and the amount of money arising by the sale. This notification and the Registrar's certificate are kept by the chief clerk to be ready for the sale day; the contract note is returned to the division of the office it belongs to. On the sale day the notification of the sale and the money raised thereby are taken by the broker into the General Cash Book Office of the Bank, and a receipt, which is an echo of the notification, is given to him for the money. The receipt and the Registrar's certificate are taken to the Transfer Office and placed in the book in which the transfer of the stock, for the Accountant-General to sign, is entered. Before signing the transfer of the stock sold the Accountant-General sees the bank receipt for the money arising by the sale, and also has the part of the Registrar's certificate directing the sale read over to him. Besides the entry in the book and the usual receipt for the money, the Accountant-General also signs the above-mentioned notification, which is taken back to the Cash Book Office. The amount arising from the sale is entered upon the "slip" as a cash receipt, and the "notification" is sent into the Bank Chancery Office, and becomes the authority for debiting the particular cause or account with the amount of stock sold, and crediting it with the money arising by the sale. In the meantime at the Accountant-General's Office the contract note has been entered in the direction book under the date the sale is done for. The entry contains full particulars of the sale and also the dates of the order and other papers, and the name of the Registrar who signed the certificate directing the sale to be made. From the entry in the direction book two entries are made in the journal, one of the amount of stock sold, and the other of the cash arising from the sale. The account in the ledger is debited and credited accordingly. A certificate (Form E 2.) is made out containing all the particulars of the sale and annexed to the receipt sent from the Bank. The certificate is afterwards compared with the contract note by the chief clerk, signed by the Accountant-General, and filed at the Report Office.

6th. Transfers of Stock out of Court.

25. These transfers are bespoken by producing at the Accountant-General's Office the orders of Court directing them and such other papers as may be necessary to ascertain the amount to be transferred, as certificates of the judges' clerk and affidavits, and also the Registrar's certificate directing the transfer as in case of sales. Sometimes they are simple, as a certain specified sum to one or more

persons by name; sometimes they are complicated, as when the sums and persons are numerous, or when the residue of a given sum after certain sales directed to be made thereout is to be transferred, perhaps in certain proportions indicated in the order, and giving rise to a good deal of calculation; and sometimes they are conditional, as on the execution of deeds or proof of facts by certificate or affidavit. The process gone through is as follows :—A clerk examines the Registrar's certificate with the order and other papers produced, as in case of sales, and ascertains that the sum to be transferred, and the description of the stock and title of the cause or account, agree with the ledger, and he makes a memorandum upon the account that a transfer has been bespoken. He also investigates the liability of the fund to legacy or succession duty, and, if it should be liable, insists upon the production of the receipt, or a certificate from the Legacy Duty Office that the duty is paid before allowing the transfer to proceed, unless there be a provision in the order for the payment of the duty to the Receiver-General. The solicitor who bespeaks the transfer is required to write at the foot of the certificate the residences and descriptions of the parties to whom the transfer is to be made, and to sign his name as vouching for the correctness of such residence and description. The order and other papers, if any, and the Registrar's certificate are sent to the chief clerk for examination, and the certificate is then sent to the Chancery Office at the Bank to have, as in the case of a sale, the amount of stock appearing in the ledger of that office to be standing to the credit of the cause or account mentioned in the certificate written on it. The Bank clerk adds his initials, and notes any difference which there may be between the title of the account as it appears in his books and in the Registrar's certificate, and sends the certificate back to the Accountant-General's Office. A transfer ticket (Form F 1.) is then drawn containing the title of the cause or account, the amount and description of the stock, and the names and addresses of the persons to whom the transfer is to be made, and then the ticket and certificate are passed to another clerk for examination. A certificate (Form F 2.) is then made out, dated the day on which the transfer will be made, containing the dates of the order and other papers, the name of the Registrar signing the certificate directing the transfer, the amount and description of the stock, the title of the cause or account, and the names of the parties to whom the transfer is to be made. The Registrar's certificate and the transfer ticket are then sent to the chief clerk, and the title of the cause or account, the amount and description of the stock to be transferred, and the names of the parties to whom the transfer is to be made, are then entered upon a list (Form F 3.), which contains all the transfers for that particular day belonging to the same division, and is (as in the case of purchases) in the form of a notification, addressed to the Chief Accountant of the Bank. The list is then sent into the proper division of the office to be examined with the certificates of transfer made out there as before mentioned. The transfer tickets and Registrar's certificates are taken by the broker to the Bank on the morning of the transfer day; the proper entries are made in the books there, and the Registrar's certificates are placed in the respective transfer books in which the entries are made, for the Accountant-General to sign.

26. At the time the Accountant-General signs the transfer book, the Registrar's certificate is read over to him, and the amount transferred is ticked-off in the transfer list. When all the transfers are signed, the list is looked through to see that none have escaped marking; the Accountant-General adds his signature, and the list is then taken to the Bank Chancery Office, and is the authority for debiting the various accounts with the sums transferred. At the Accountant-General's Office an entry in the journal of the transfers is made from the certificates before spoken of as having been taken from the Registrar's certificate, and as having been compared with the list of transfers sent into the Bank Chancery Office. From the journal entry the causes and accounts in the ledger are debited with the amount of stock transferred. The certificates of the transfers having been made are signed by the Accountant-General, and are then filed at the Report Office.

27. With respect to both sales and transfers, it may be remarked that the stock stands in the Accountant-General's name in trust to attend the orders of the Court. The Bank, however, never see the order of the Court directing the sale or transfer; the above-mentioned Act of the 12 George I. c. 32., directs that the certificate of the Registrar shall be a sufficient authority to the respective companies in whose books any stock may be so standing in the Accountant-General's name for allowing the sale or transfer to be made. The certificate being marked by the clerk in the Bank Chancery Office, with the amount of stock standing to the

particular account, shows the clerk in the Transfer Office whether there is sufficient stock to make the intended sale or transfer; if not, of course the transaction would not be allowed to go on. The Accountant-General's duties with regard to sales and transfers are much more onerous. The order must be read through to see that the sale or transfer is one that can be properly made. There may be other charges imposed upon the fund by the order of equal priority with the proposed transaction, and some of these may be of unascertained amount; and it may therefore be doubtful whether the fund will be sufficient to meet all the charges upon it. In such a case either the transaction must be deferred until the amount of all the charges the fund has to bear has been ascertained, or some words must be introduced into the order to give the proposed sale or transfer priority. It often happens that the sale is a second sale during the time that another out of the same account is going on, or it may be a transfer of the residue, or a portion of the residue, after a sale for costs or legacy duty has been contracted for but not completed; in which cases the whole stock would be marked as standing on the account at the Bank Chancery Office; and unless great care were taken at the Accountant-General's Office in giving information to solicitors as to the amount contracted to be sold, and in examining and checking their affidavits of residue, there would be the danger of parting with a larger amount of stock than was actually standing to the credit of the particular account. The order may direct several sales or transfers or both out of the same fund, and these may be bespoken at different times, and by different solicitors, and consequently there may be several separate certificates issued by the Registrar relating to portions of the same fund. The certificate is marked at the Bank Chancery Office, with the amount of stock standing upon the account at the time it is sent to them, and nothing more is known at that office of the transaction until the notification arrives there from the Accountant-General of the sale or transfer having been effected. The order may contain other directions, such as carryings over to separate accounts or transfers to parties, which for some cause or other cannot be bespoken. The Bank know nothing of these directions; the only question for them is, whether the stock on the particular account dealt with is sufficient to meet the directions of the Registrar's certificate, and, if it is, the sale or transfer is allowed to take place.

7th. Payment of Money out of Court.

28. The order of the Court and other necessary papers are produced by the solicitor to the senior or second clerk of the division in which the cause or account is, on which the cash to be dealt with stands, according as the cheque to be drawn is for principal money or for interest. The clerk looks over the papers and receives any explanation which, on such cursory inspection, may appear necessary.

29. As soon as the duty of attending to the public, who may apply for the cheques already prepared, and to the solicitors who come to bespeak other transactions, will allow, the order is carefully read through in order to understand the whole disposition of the fund; the ledger account is referred to to see that the amount of cash out of which the sum is directed to be paid is actually standing to the credit of the cause or account mentioned in the order, or rather was standing there at the date of the order, and if there has been any dealing with such amount the order directing such dealing has to be looked through to see whether or not its provisions in any way affect those of the order to be acted on. If upon such examination it should appear that there is any such defect or inaccuracy in the order as to make it necessary to communicate with the Registrar, in order to its alteration before it can be acted on, either the Accountant-General's clerks, or in some cases the Accountant-General personally, must communicate with that officer, but if there should not appear either in respect of the wording of the order or the state of the account, any reason to the contrary, a check is drawn entitled with the cause or account mentioned in the order and the amount of it in figures is put in the margin opposite to the direction to pay, unless the amount to be paid has been ascertained by the judge's clerk or by the taxing master, in which cases the figures are put in the margin of the certificates issued by them. The cheque is then examined as to its title with the cause or account in the ledger, and the amount of it marked in pencil on the debit side to signify that a cheque has been drawn. The cheque, with the order and other papers, is then passed to another clerk for examination, and if found correct an entry is made of it in a receipt book for the party to whom it is made payable, or a person empowered by a special power of attorney from him, to sign. The entry in the receipt book contains full particulars of the cheque, and the folio of the book where the entry is made is

put on the cheque. It is then given back with the order and other papers to the clerk who drew it, who lays it before the Accountant-General for signature. The order is read over to him, and the other papers, if any, determining the amount are referred to, and if he is satisfied that the cheque carries out the intention of the Court, he puts his signature thereto, and also his initials in the margin of the order or certificate. The cheque is then put away in a box appropriated to that purpose under an alphabetical arrangement waiting for the application of the party entitled to it. The cheques are kept in iron safes in the respective divisions of the office, the first and second clerks only having the key. The party named in the cheque or a person duly empowered by him must come personally for it and sign the entry in the receipt book, and, if he has not already been identified, must get some solicitor known in the office to sign the receipt book also as a witness to his signature. The cheque is then dated and delivered to the party entitled to it, and taken with the order and other papers under which it is drawn to the signing Registrar who countersigns it and puts his initials also to the amount drawn out as before mentioned in the margin of the order or certificate. If the cheque is paid under a power of attorney, the name of the person empowered is written on the back of the cheque with the words "attorney" by the clerk who pays it, who adds his initials to the name. This is done for the information of the Bank, as otherwise the indorsement of the person named in the cheque would be required. To get the cheque cashed it must first be taken to the Chancery Office at the Bank. It is there compared with the ledger account as to the title of the cause or matter out of which it is drawn, and as to there being cash enough on that cause or matter to meet it. If there should not be sufficient cash there, or if the title of the cheque does not agree with the title in the ledger, or if the title has been so abbreviated as to apply to more than one account the cheque will be returned to the party to be corrected by the Accountant-General. If no error be discovered in it, it is marked with the initials of the Bank clerk who examines it, and given back to the party presenting it who is told to take it to an office (the General Cash Book Office) on the opposite side of the passage in which the Chancery Office is. It is there examined as to its endorsement, and the person presenting it has to write his name on the back. A ticket is then given for the amount of the cheque, payable either in notes or coin or both at the public drawing office, which is at some distance from the place of examination, and the person presenting the ticket for payment is requested to write his address on the back. A list for each division of the Accountant-General's Office containing the respective amounts of the different cheques paid during the day, with the folios of the receipt book copied from them, and a slight reference to the titles of the causes or accounts, is sent up each evening from the General Cash Book Office of the Bank. By means of this list, called the cash payment slip, a clerk in each division of the Accountant-General's Office makes an entry in the journal of the various sums paid during the day. He turns to each individual receipt in the receipt book as indicated by the slip, and observes whether it has been duly signed and witnessed. All the cheques paid out of the same account on the same day are put together and a total made of them. When the whole slip has been thus gone through, the journal is added up, and the total of the day's payments compared with the total of the slip, and if they do not agree the items are examined and the mistake discovered and rectified. From the journal entry the various accounts in the ledger are debited with the sums paid; the slips are kept for future reference.

30. Cheques for dividends and other periodical payments, as annuities and maintenance, after the first payment are drawn without bespeaking. They become regular interest cheques, and the production of the order is not required either by the Accountant-General or the Registrar. When the cheque for the first payment has been examined a model is made of it, containing full particulars, and showing the dates when the subsequent payments will become due. If there be a power of attorney to receive the continuing payments, the number of the power and the name of the attorney is written upon the model. The models are alphabetically arranged according to the causes and matters for the sake of easy reference. The regular interest cheques are drawn from these models, they are entered in receipt books like bespoken cheques, and are then examined with the models and ledger accounts by the senior and second clerks of the division, and are signed by the Accountant-General. There are upwards of 21,000 of these cheques drawn and the greater part of them paid annually. The payment of them commences the day after the Bank begin paying the dividend. Many of them contain conditions to be fulfilled before payment can be made. Such conditions

are the existence of some life or lives other than that of the payee; the continuing minority of an infant, the payee continuing a widow or unmarried, the continuing to hold some office as archbishop, bishop, rector, vicar, incumbent or curate, churchwardens and overseers, schoolmaster, treasurer of a charity, or trustee, the payee not having encumbered his interest, or where the payment is to continue until a certain sum has been paid. In one case the condition was that the payee had not appeared in public as an actress or public singer; in another the maintenance of a horse, and in another the life of a cat. An affidavit is required to be produced showing that the condition is fulfilled, and if the cheque is to be received under a power of attorney the payee's life has to be proved. This is done by a request (Form G.) signed by the party, accompanied by a certificate from the minister and one of the churchwardens of the parish, or by an affidavit.

31. In connexion with the payment of the regular interest cheques, the duty of calculating the dividend upon the various sums of stock standing on the different accounts in the Accountant-General's books may be referred to. It must be borne in mind, as already stated, that the whole of each description of stock in court stands in the books of the various Funds at the Bank of England, and in the books of the various public companies, in the sole name of the Accountant-General, in trust as before mentioned. The dividends upon each kind of stock are therefore paid to the Accountant-General in one sum, and are received for him, under a power of attorney, by one of the cashiers of the Bank of England, and placed to his general cash account there. Previously to each dividend becoming due a list is made out in the form of a journal entry, containing the titles of the several accounts, to the credit of which any amount of the particular kind of stock upon which the dividend is going to be received is standing, the amount of stock remaining upon each such account, and the dividend (less income-tax) that will become due thereon. The accounts on which the stock is standing for the first time, or on which it has been altered since the last dividend, are marked in the margin, and the list is sent sheet by sheet to the Chancery Office at the Bank. Two copies are there made of it; the stock and dividend on each account marked as altered are checked; the castings of both stock and dividend are examined, and the list returned to the Accountant-General's Office. From these "sheets" the dividends are posted in the ledgers. The total interest is of course made to agree with the amount received for the Accountant-General by the Bank cashier. One of the copies of the sheets made by the Bank is kept there, as the authority for posting the dividend in their ledgers; the other is sent to the Accountant-General in the form of a certificate of the amount of dividend received, and placed to the various accounts. It is examined in the different divisions of the office, and filed at the Report Office. Owing to the frequent changes in the income-tax which have taken place of late years, much additional labour has been caused to the office in preparing for the dividend, as upon every such change each of the individual sums of stock, of which there are more than 18,000 in the Accountant-General's books, has had to be treated as a new amount, and the dividend, less income-tax, calculated afresh upon it.

32. The preparation of powers of attorney, of which there were 3,244 made out during the last year, requires much time and attention. To obtain a power of attorney, there must be a request (Form H 1.), signed by the solicitor who bespeaks it, setting forth the names, addresses, and descriptions of the parties from and to whom the power is to be granted, the amount of cash to be received under it, and the dates of the orders and other papers under which the cheque has been or will be drawn. The solicitor who signs the request for the power certifies that the person to whom it is to be granted is well known to him, and the request is submitted to the Accountant-General for his approval. The power (Form H 2.) describes the cheque to be received under it, either by its amount or as being for the interest on a given sum of stock, or the payments due and to become due of a given annuity, and it also mentions the title of the cause or account on which the money or stock is standing. The dates of the order and other papers under which the payment is made are also inserted in the power. If the cheque is already drawn, the preparation of the power takes up little more time than that which is necessary to write it, but it frequently happens, especially in busy times, that the power is bespoken before the cheque has been drawn, and then the preparation of it involves an examination of the order and ledger, so as to see whether the cheque can be made out, and in what form it will be. The powers are examined, before they are delivered out for execution, by the senior clerk of the division, and the execution is also carefully examined by him when they are

brought back to be acted upon. If there is any doubt as to the sufficiency of the execution, it is immediately submitted to the Accountant-General. The power, it should be observed, concerns the Bank as well as the Accountant-General. It first authorizes the attorney to receive a cheque (describing it) from the Accountant-General, and then "to write and endorse" the grantor's name "upon the back of such note or draft, and to receive the money drawn for thereby from the Bank of England." The Bank pay the money to the attorney upon his own endorsement, trusting to the initials of the Accountant-General's clerk (which are known to the officers of the Bank), placed at the back of the cheque against the attorney's name, as proving that a power of attorney for the receipt thereof, properly executed, has been left with the Accountant-General.

33. Another duty which devolves upon the Accountant-General's Office is that of informing the Court of the present state of any of the accounts in his books on which there remain any money or effects. This is done by what are called voluntary certificates. They are bespoken by a solicitor, and are made out on the second day after bespeaking, to give time for posting in the ledger the various transactions of the day on which they are bespoken. These certificates are made out by one clerk and examined by another, and then signed by the Accountant-General. They are very numerous, as no order is drawn up dealing with funds in court without the production of one of these certificates.

34. Transcripts of the accounts are also frequently required for the information of the solicitors, and especially of the judges' clerks. They are taken principally from the ledger, with such references to the journals as may be necessary to give a clear account of the various receipts and payments, and other transactions which have taken place with regard to the fund, on the particular account to which the transcript relates, during the time it has been in court. Sometimes they are of great length, as the accounts to which they refer may have existed for a very long period, or there may have been a large number of persons from or to whom money has been received or paid, and the other transactions relating to the fund may have been numerous.

35. Searches have occasionally to be made to supply solicitors with information upon subjects which the books in current use in the office do not enable the clerks to give. Such subjects are, when a particular sum of money or stock was paid or transferred into Court, or out of Court, under what order, &c.; and if paid out, to whom, whether personally or by power of attorney, &c.

36. The only fees paid for anything done in the Accountant-General's Office are 3s. for every power of attorney, 2s. for each debtor and creditor opening of a transcript of account, and 5s. for each search. These fees are settled by an order of the court, and are wholly paid into the fee fund account by Chancery fee fund stamps.

37. Negative certificates are also sometimes wanted to prove that particular sums of stock or cash have not been transferred or paid into court within the time limited in the order. The order and such other papers as would be necessary to prepare the directions to transfer or pay in have to be left. The account is carefully examined and if the time for doing the act has clearly expired without its being done, a certificate to that effect is made out. It is examined by the second clerk, who puts his initials, and then taken with the order and other papers to be read over to the Accountant-General and to receive his signature. Great care is taken with these certificates as they are taken to be evidence of the fact which they certify, and are used by the proper officer of the Court as the foundation upon which to issue process of attachment.

38. In order to secure accuracy as far as possible in the operations of the office, the principle (as may be collected from the preceding detail) is adopted that all documents, cheques, directions, &c. must pass from the clerk who draws them to another clerk and be carefully examined by him with the orders and other papers under which they are drawn, and be marked with the initials of the examining clerk before they are signed by the Accountant-General. The entries in the ledgers also are daily compared with the journal entries. In addition to these examinations, for the purpose of preventing any material difference between the accounts of the Accountant-General's Office and those of the Bank of England Chancery Office, the totals of debits and credits for the preceding three days in each division are sent up from the Bank twice a week, and an account of the balances of cash and securities at the end of each month is also sent. These totals and balances are carefully compared and agreed with the books of the Accountant-General. An account of the balance of cash remaining in the Bank to the credit of the Accountant-General in each

division of the office is also sent weekly from the Bank Chancery Office under cover, addressed to the chief clerk. An account of the same balance is brought in from the several divisions of the office to the chief clerk and compared with the Bank account. Should any difference occur it is immediately inquired into. The balance of cash and of each kind of stock standing upon every account in the Accountant-General's books once a year, on the 1st October, is ascertained. The title of each account upon which any cash or stock is then remaining is written in a book called a balance book, and opposite to such title the amount of cash and stock belonging to it is entered; a separate column being devoted to cash and to each kind of stock. A similar book is made out at the Chancery Office of the Bank. The two books are then compared together and a memorandum taken of any difference that may be detected. The differences are investigated and settled; the balances which have turned out to be wrong are corrected and the corrected balances added up. The totals of the different columns are compared with the balances of the general cash and stock accounts, and if they do not agree the work of examination and comparison is again resorted to until at last a correct balance of each is obtained.

39. The system of book-keeping adopted at the Accountant-General's office is very simple. It has been the same in principle ever since the institution of the office, but some simplifications have been introduced which experience has shown might be made with safety. The books in use are, 1st, direction books and receipt books, which contain entries of things to be done; 2nd, journals of receipts and payments, in which all the transactions of the office under the date at which they were actually done at the Bank are entered; 3rd, ledgers, which contain the accounts of every cause or matter in the office, and to which the entries of the journals are daily posted. On the 29th January 1833 the then Accountant-General decided to alter the method in which the ledger accounts had up to that time been kept, by having the cash and stock entered in distinct columns. Previously to that time the cash was entered by itself in the inner column of the ledger, but it was also entered in the outer column where the stock was entered. The alteration consisted in entering the cash in the inner column only, and thus keeping the outer column for the stock. The great advantage of the alteration consisted in enabling anyone who consulted the ledger to ascertain the amount of stock standing on an account much more readily than it could previously be done; as it only requires the stock columns (Dr. and Cr.) in the most complicated accounts to be added up and a subtraction to be made in order to ascertain the balance of stock. Under the old system, the stock column was much heavier to add (as it contained the cash) the cash columns had also to be added and the balance of cash found, and then the cash balance deducted from the balance of the stock columns before the balance of stock could be ascertained. The alteration took place 1st February 1833.

40. Totals of the journal entries are made twice a week, and general cash and stock accounts kept, which are debited and credited with these totals, according to the system of double entry. By this means the total amount of cash and of each kind of stock in the Accountant-General's name at the Bank, can at any time be ascertained. The ledger entries are made much fuller than would be the case with a merchant or banker, so that as far as is practicable the past history of the accounts may be understood and the questions which are constantly being asked about them answered without being obliged to have recourse to other books for information.

41. From the above detailed account of the proceedings of the Accountant-General's Office it will easily be seen that much of the work that has to be done there has no counterpart whatever at the Chancery Office of the Bank of England, where nothing is originated; there are no orders of the Court produced there, nor any document emanating from the Court, excepting the Registrar's certificates of sale and transfer, and no transactions whatever bespoken, no inquiries to answer as to the state of the accounts or in relation to any past transactions which have taken place with regard to them. There are no communications to make to the Registrar, and no information to be furnished to the Court, either by certificate or transcript of account. The only way in which the clerks of the Bank Chancery Office in the performance of their official duties come in contact with the public is in the examination of the Accountant-General's cheques with the ledger accounts kept there to see if there is cash enough to meet them. The clerks of that office also examine the Registrar's certificates of transfers of stock out of court, and of sales of stock, as has already been stated for a similar purpose, and make out certificates of carryings over having been effected, and a certificate of the receipt of

the dividends upon the various stocks in the Accountant-General's name. The rest of the work of that office consists in keeping an account of the various transactions under the same titles and dates in the ledgers, and identical in its results with the Accountant-General's account but not so full in its details.

42. As there are no questions to reply to at the Chancery Office of the Bank, as at the Accountant-General's Office, with regard to the state of the accounts, some particulars which it is found necessary to insert in the ledgers and other books at the latter office are omitted at the former as being of no use there. As there are no cheques or directions to draw, so also are there none to enter, and, therefore, no receipt books or direction books to keep. At the Accountant-General's office every cheque and direction is entered in a book, in order that when the payment, whether in or out, is made the entry may be referred to for journalizing, as before mentioned. But at the Bank the documents themselves are made use of for the purpose of their journal entries. The particulars of the cheques and directions, so far as is required, and the Accountant-General's notifications as to stock transactions, are there copied at once into the journal. There is no folio of the direction book or receipt book to turn to for each payment in or out, and, therefore, the work of journalizing is done with much greater facility there than it can possibly be at the Accountant-General's office. The duties analogous to those performed at the Chancery Office at the Bank are done by some of the four junior clerks in each division of the office of the Accountant-General, and if an estimate were made of the quantity of work of each office for the purpose of comparison, it would probably be found that the whole of that which has to be done by the clerks in the Bank Chancery Office does not exceed, even if it equals, that of two junior clerks in each of the four divisions of the Accountant-General's office.

43. In completion of the above statement of the constitution of the department, and of the forms of business in use in it, its leading principles may be defined as aiming at accuracy and security in action, and at facility and truth of subsequent reference and explanation as to the smallest details, at any distance of time. By making inquiry as to the past dealing with any fund however complicated, the completeness with which the latter object has been attained may be readily tested.

44. The degree of security arrived at in respect of the custody of the funds of the Court (now exceeding 52 millions) under the existing system, simplified and improved as it has been from time to time in the course of 130 years, may be in some degree suggested by a statement that the total loss in respect of fraud or error as regards any proceedings in the department of the Accountant-General, is believed not to have amounted during the whole period to 1,000l.

W. RUSSELL, A.G.

STATEMENT showing the DISTRIBUTION of DUTIES among the Clerks in the Accountant-General's Office.

Principal or 1st Clerk.

Take in orders for principal drafts, draw, get them signed and deliver them.

(In August the 1st clerk to be relieved from drawing one-third of these drafts.)

Get signed and deliver certificates of delivery out of bills and boxes, &c.

Take in and enter restraining orders.

Examine and mark off sales with brokers' notes.

Examine powers of attorney before and after execution.

Examine regular interest drafts with models and ledgers with 2nd clerk.

Examine the principal drafts drawn by the 2nd clerk in August, and get them signed.

2nd Clerk.

Examine regular interest drafts with 1st clerk.

Take in orders for first payments of interest and maintenance drafts, and drafts for interest money, draw, get signed and deliver them.

Draw one-third of principal drafts in August.

Take in instructions for all powers of attorney and draw them, except the drawing of two-thirds in August.

Take in orders for carryings over, sales, transfers out and delivery out of bills, &c., and negative certificates.

Examine directions to pay in money and to deposit bills, &c., and negative certificates, and get them signed.

Draw and get signed, carryings over and draw tickets to transfer out.

Examine requests for purchases with orders and ledgers and all purchase drafts with the brokers notes and get the drafts signed.

Give commissions to the broker.

3rd Clerk.

Draw one half of the regular interest drafts and deliver the whole of them (except drawing one half of the October dividend).

Examine first payments of interest and make models of them.

Keep power of attorney book.

Examine carryings over.

Draw two-thirds of the powers of attorney in August.

Examine the regular interest purchase drafts with investment books and ledgers.

4th Clerk.

Take in orders for directions to pay in and to deposit and draw directions for the same.

Take in orders for purchases and draw the drafts and make out commission paper for the broker.

Keep infant legatees, trustees, and general investment books, draw the drafts for the investments, and make out commission paper.

Give answers from ledgers, take down voluntary certificates, and take instructions for searches.

Draw negative certificates.

Draw half of the regular interest drafts.

Take in requests for transcripts and deliver them.

Examine principal drafts and drafts for interest money except the first payments of interest and the regular interest drafts, and except the principal drafts drawn by the 2nd clerk in August.

5th Clerk.

Keep ledgers and stock ledger and Exchequer bill book.

Examine voluntary certificates.

Examine all postings of journals with 7th clerk.

Examine entries of restraining orders.

Make searches.

6th Clerk.

Keep receipt journal.

Make out transcripts of accounts.

Examine tickets to transfer in and out and draw certificates for them.

Examine postings of dividend sheets with 7th clerk.

Alter up old dividend sheets, make out one half of new sheets, cast and settle the whole of them.

Enter principal drafts.

Examine transfer list with 8th clerk.

Make out voluntary certificates.

7th Clerk.

Keep cash payment journal.

Enter drafts drawn by 2nd clerk.

Enter purchase drafts.

Keep schedule book.

Examine postings of receipts and payment journals with 5th clerk.

Examine postings of dividends sheets with 6th clerk.

Copy out half of new dividend sheets.

Enter one-third of regular interest drafts.

Draw one-half of the October dividend drafts.

8th Clerk.

Keep direction book.

Draw certificates of payments in, purchases, sales, and carryings over.

Examine brokers' notes and complete purchase drafts for 2nd clerk, and mark amount of stock sold on Registrar's certificates for 1st clerk.

Examine transfer lists with 6th clerk.

Enter two-thirds of regular interest drafts.

FORMS IN USE IN THE ACCOUNTANT-GENERAL'S OFFICE.

FORM A 1.

Direction to pay Money into Court.

No.

I do hereby certify that, pursuant to an order dated the _____
and a _____ filed the _____

_____ is on or before the _____
to pay into the Bank of England the sum of _____

which is to be placed to my account as Accountant-General, and to the credit of the cause _____

and a receipt is forthwith to be brought to me, from one of the cashiers of the Bank, for payment thereof, as directed by Act of Parliament.

£

FORM A 2.

Certificate of Money having been paid into Court.

I do hereby certify that, pursuant to an order dated the _____
and a report dated the _____
and an affidavit sworn _____

_____ ha paid into the Bank of England the sum of _____

which is placed to my account as Accountant-General, and to the credit of this _____

in the books kept at the bank (and in my office), as appears by the receipt of Mr. _____ one of the cashiers at the Bank, dated _____ hereto annexed.

FORM B 1.

Ticket to transfer Stock into Court.

£

To the Accountant-General of the Court of Chancery, William Russell, Esq., his successors and assigns, in trust, to attend the orders of the said Court in the cause _____

To be transferred on or before _____
the _____

N.B.—If any alteration be made in this ticket by the parties, the transfer is not permitted to take place.

FORM B 2.

Certificate of Stock having been transferred into Court.

I do hereby certify, that pursuant to an order dated the _____

transferred to my account, the sum of _____

£

which I have accepted (in trust) in the cause _____

as appears by the certificate of Mr. _____ the proper officer of the Bank of England, dated _____ hereto annexed.

FORM B 3.

Notification to Chancery Office of Stock transferred in having been accepted.

186

Mr. Gray,
Sir,

I have accepted the following sum of annuities, which has been transferred to me (in trust) in the cause _____

£

FORM G.

Certificate of Grantee of Power being alive.

To the Accountant-General of the
Court of Chancery.

Be pleased to pay to Mr. by virtue of my
letter of attorney granted to him, the interest due to me on
the day of 186 in the
cause

We, the Minister and one of the Churchwardens of the
parish* of in the county of do
hereby certify, that the above-named was
living on the day of 186

*Or chapelry, as the
case may require.

N.B.—This is not to be filled up, but copied and kept as a
precedent.

FORM G.

Certificate of Grantee of Power being alive.

To the Accountant-General of the
Court of Chancery.

Be pleased to pay to Mr. by virtue of
my letter of attorney granted to him, the half-yearly pay-
ment, due to me on the day of 186 ,
out of the cash in the cause against

The Notary, I*
Consul-General, do hereby certify, that the above written
Ambassador, or
Secretary of Em-
bassy, as may be
most convenient
to the party
abroad..

came before me on the day
of 186 , and signed the
above order in my presence, of which act
evidence being required, I hereby certify the
same under my hand and seal of office.

Done at
the day of

L. S.

N.B.—This form is to be kept as a precedent by the party
abroad entitled to the interest, and a copy is to be transmitted
to his or her attorney, half-yearly, to enable him to receive the
interest.

FORM H 1.

*Request for a Power of Attorney.
(Request for Power of Attorney.)*

versus

{ Short title of the
cause, or matter,
or cause and ac-
count, as the case
may be, in which
the fund stands.

A power of attorney from

Name, address,
and description
of grantor.

In the county of the person named
in an order in the cause dated
or in a report, filed
To

Name, Address,
and description
of grantees.

jointly and severally (who is or are well
known to me) to receive your
note or draft on the Bank of England for*
the sum of £

* If applicable to
receipt of divi-
dends, give de-
scription and a-
mount of stock on
which they are to
be received.

dated this

To the Accountant-General of the
Court of Chancery.

To be signed by the solicitor himself, who bespeaks it, or if
bespoken by a firm, by one of the firm with his own name on
behalf of the firm.

FORM H 2.

Form of Power of Attorney.

Know all men by these presents that

have nominated constituted and appointed and by
these presents do nominate constitute and appoint

This paper writing was produced and shown to
the same mentioned and referred to in his affidavit sworn this
day of 186, before me

true and lawful attorney for
and in name or in own name
but for use to ask demand and receive of and
from the Accountant-General of the Court of Chan-
cery the cheque note or draft to be by him drawn on
the Governor and Company of the Bank of England
for the sum of

and do hereby authorize and empower
said attorney to write and endorse
name on the back of such note or draft and to
receive the money drawn for thereby from the Bank
of England, and on receipt of such note or draft and
sum of money to give proper acquittances and dis-
charges for the same to the said Accountant-General,
and the Bank of England hereby ratifying and con-
firming whatsoever said attorney
shall do in the premises by virtue of these presents
In witness whereof have hereto set hand
and seal this day of
in the year of our Lord one thousand eight hundred
and sixty

Sealed and delivered (being first duly
stamped) in the presence of

In this power of attorney, the date (in words) must be inserted
prior to its execution, each of the witnesses attesting the same
must write their residence and business or occupation in life.
One of them must be a housekeeper and be so described. And
one of them must make an affidavit of its due execution before
a master in chancery or commissioner for taking affidavits in
chancery in England, unless the same be executed in those parts
of Scotland or Ireland where no such officers are appointed,
when it may be made before the chief magistrate of the place or
other person lawfully authorized to administer oaths.

In Chancery.

I of make oath
that I was present and did see

duly sign seal and as act and deed deliver the
letter of attorney hereto annexed and that the name*

thereto set as the part executing the same of the
proper handwriting of the said

and that the names

and

set or subscribed as witnesses to the due execution of the
said letter of attorney are of the proper handwriting of the
said and of me the
said deponent and that the said is a
housekeeper and residing at in the county
of

Sworn at

* In this affidavit, the signatures of the person or persons
executing the annexed power of attorney and of the witnesses
attesting its execution, whether such be the name written at
length or abbreviated, or merely a mark must be quoted exactly
as written, and if by a mark then this affidavit must state that
the said power was previously read over to and understood by
the grantor.

FORM J.

Voluntary Certificate.

18

I do hereby, at the request of Mr.
solicitor for the humbly certify, that
there is now remaining on the credit of this cause

No. IV.

STATEMENT showing the Principal Difficulties in the way of Change in the system of Buying and Selling STOCK at the ACCOUNTANT-GENERAL'S OFFICE; with Observations as to the amount of pecuniary advantage likely to result from such Change.

In making the various purchases and sales of stock bespoken daily at the Accountant-General's Office, each individual purchase and sale, with the title of the cause or matter to which it relates, is given to the broker, as a distinct commission to be executed by him quite independently of any other; and he furnishes the Accountant-General with a contract note for every commission so given, containing all the particulars connected with the execution thereof, as detailed in the Accountant-General's statement, relating to the practice of his office lately furnished to the Chancery Funds Commissioners. It has been frequently suggested that, instead of giving the different commissions separately to the broker, as above mentioned, the total amounts of stock to be bought and sold each day should be ascertained, and that the difference only between the two amounts should be given to him as a commission to buy or sell according as the purchases or sales might preponderate. Some evidence upon this subject was taken before the Select Committee of the House of Commons, to inquire into the Fees in Courts of Law and Equity, in the year 1848, and is to be found in their first Report (Parliamentary Paper, 158, Sess. 1848), pages 46 to 55, and 66 to 68; but, although the witnesses (Mr. Mortimer, the Accountant-General's broker, and Mr. Parkinson, the then Chief Clerk,) were of opinion that the suggestion was impracticable, the real difficulties which stood in the way of its adoption do not appear to have been clearly stated to the Committee. It seems quite evident, from the questions which were put, that some of the Committee were of opinion that a great saving might be effected by operating upon the balance only, in the way proposed; and in page 169 of the same Report, the evidence of two Solicitors (Mr. Barnes and Mr. Coverdale) is given, to the effect that, *although the suitor has no cause to complain of the present system, inasmuch as his stock is bought or sold at the current rate of the day, yet by the adoption of the proposal, a gain, properly available for the Suits' Fund, would accrue (including the brokerage) of 11,000*l.* a year.* In the second Report of the same Committee, it was recommended that only the balance of stock required to be bought or sold in each day should be bought and sold by the broker, and the one-eighth per cent. on the funds transferred thereby saved to the suitor, and which, but for that alteration, would have been actually bought and sold, should be paid to the Suits' Fee Fund, for the benefit of the suitors. By the Suits' Relief Act (15 & 16 Vict. cap. 87), many of the recommendations of the Committee are carried into effect; but nothing is done with respect to their suggestions as to buying and selling stock; except that in section 21, it is enacted, that it shall be lawful for the Commissioners of Her Majesty's Treasury to make such regulations with respect to the broker to be employed in transacting the business relating to the funds of the Court of Chancery, and the amount of commission to be received by such broker, or the payment of such broker by salary or otherwise as they shall from time to time think fit. The power thus given to the Treasury has never been exercised; the only alteration in any way respecting the purchases and sales of stock being the payment (under section 19 of the same Act) to the Accountant-General of a salary in lieu of the proportion of the brokerage formerly received by him, and the payment of such proportion of brokerage to the credit of the Suits' Fee Fund account, as mentioned in the Accountant-General's statement, before referred to, paragraph 10.

From the Report of the evidence given before the Commissioners appointed to inquire into the proposed concentration of the Law Courts, this subject of buying or selling the balance appears to have been again adverted to. One of the witnesses is reported to have said (page 92) as follows:—"Another sin which this (the Accountant-General's) office has to answer for, is the way it buys and sells its investments. Suppose there is 40,000*l.* stock to be bought any given day, and 41,000*l.* to be sold, the 1,000*l.* balance alone ought to be dealt for, and brokerage paid upon that only; but it buys all, and sells all, and pays brokerage, as I understand, on 81,000*l.*" The fact that in carrying into effect the orders of the Court as to purchases and sales of stock, the Accountant-General has to proceed in the manner prescribed by the Act 12 Geo. 1. cap. 32, having been apparently entirely overlooked. It may be as well, therefore, to state what the principal difficulties are, which stand in the way of carrying the proposal into effect; and to endeavour to form an estimate of the pecuniary advantages which would be likely to result from its adoption.

The first difficulty which presents itself is the absolute

impracticability of furnishing the broker with the amount of the balance to be bought or sold. The suggestions made for a change of the system all seem to suppose that there are certain sums of stock to be bought each day, and others to be sold (being of course the various purchases and sales bespoken by solicitors), and that therefore the total amount of the sums to be bought could be set against those to be sold, and a balance obtained. The fact, however, is that nearly all the purchases consist of sums of cash to be laid out in the purchase of stock, whereas the sales are either sums of stock to be sold or sums of cash to be raised by the sale of stock. The sales are then of two kinds; the purchases mainly of one kind only. It is a comparatively rare occurrence for an order to be made directing a particular amount of stock to be bought; whilst the larger sales are, upon the whole, those in which the amount of stock to be sold is defined. It would of course be impossible to set this last class of sales against the amounts of cash to be invested; and they would therefore have to be effected as at present, except on the very rare occasions when defined sums of stock are directed to be bought. There have been only two purchases of the latter kind bespoken at the Accountant-General's Office during the first three months of the present year; one of 600*l.* consols, and one of 1,449*l.* 19*s.* 10*d.* of the same stock. In general then, if the proposal were adopted, the broker would have to be commissioned to invest or to raise daily the difference between the total amount of cash directed to be invested, and the amount of money to be raised by sales, according as the one amount or the other might be the greater, and *also to sell* in those cases in which a given amount of stock might be directed to be sold.

The following tabular statement of the totals of the daily commissions given to the broker during the first half of the month of March last may tend to make this point clearer.

TOTALS OF COMMISSIONS in respect of CONSOLS.

Date.		No. 1. Money in Consols.			No. 2. Money by Sale of Consols.			No. 3. Consols to be sold.		
		£	s.	d.	£	s.	d.	£	s.	d.
March	1	10,523	19	5	2,461	0	6	1,282	11	7
"	2	35,852	0	4	793	2	0	388	16	6
"	4	9,491	11	6	318	12	6	1,206	17	6
"	5	10,187	4	1	10,497	7	4	5,293	14	1
"	6	10,004	18	9	381	18	6	3,518	7	3
"	7	8,819	7	11	200	13	3	3,553	0	0
"	8	2,700	0	0	2,062	0	1	9,268	2	9
"	9	9,737	2	7	4,414	13	9	4,563	14	0
"	11	9,230	2	7	1,058	7	10	1,978	4	7
"	12	5,865	11	6	3,514	7	11	949	0	5
"	13	18,451	7	2	3,246	14	5	12,489	15	5
"	14	9,470	9	2	321	9	10	558	2	0
"	15	29,897	4	6	1,553	14	11	1,419	5	11

TOTALS OF COMMISSIONS in respect of REDUCED ANNUITIES.

Date.		No. 1. Money in Reduced Annuities.			No. 2. Money by Sale of Reduced Annuities.			No. 3. Sums of Reduced Annuities to be sold.		
		£	s.	d.	£	s.	d.	£	s.	d.
March	1	274	10	0	185	18	6	436	0	6
"	2	4,617	17	1	-	-	-	8	13	5
"	4	3,100	0	0	-	-	-	-	-	-
"	5	21,424	13	3	135	9	8	500	0	0

TOTALS OF COMMISSIONS in respect of NEW £3 PER CENT. ANNUITIES.

Date.		No. 1. Money in New £3 per Cent. Annuities.			No. 2. Money by Sale of New £3 per Cent. Annuities.			No. 3. Sums of New £3 per Cent. Annuities to be sold.		
		£	s.	d.	£	s.	d.	£	s.	d.
March	1	7,831	5	0	-	-	-	-	-	-
"	2	107	5	4	860	18	9	-	-	-
"	4	991	7	5	-	-	-	3,854	14	6
"	5	2,369	4	9	383	5	4	166	13	4
"	6	79	0	11	-	-	-	-	-	-

It appears from the above table, that the only diminution in the daily amounts of stock transactions to be effected by the broker, which would have been caused by the adoption of the proposal during the period to which the table relates, would have been in keeping back the several amounts in column No. 2 (to be raised by sale), and equal sums from the amounts in column No. 1 (to be invested); except, as regards consols, on March 5, when the amount in "No. 2" exceeded that in "No. 1," and as regards new 3½ per cent. annuities, on March 2, when the same state of things happened. Thus, as respects consols, on March 1, instead of commissioning the broker to invest various sums of cash, amounting together to 10,523*l.* 19*s.* 5*d.* in consols; to raise by sale of consols sums of cash amounting together to 2,461*l.* 0*s.* 6*d.*; and to sell 1,282*l.* 11*s.* 7*d.* of the same kind of stock, he would have been instructed to invest 8,062*l.* 18*s.* 11*d.* cash (being 10,523*l.* 19*s.* 5*d.*, less 2,461*l.* 0*s.* 6*d.*) in the purchase of stock, and to sell 1,282*l.* 11*s.* 7*d.* stock. The amounts kept back from him by the adoption of the proposal would therefore have been the investing in consols 2,461*l.* 0*s.* 6*d.* cash, and the raising, by sale of consols, the same amount.

Another difficulty would be in providing the requisite machinery for carrying the proposal into effect. At present, in the case of each purchase, the proper amount of stock, equivalent at the price at which the contract is made to the amount of cash to be invested, comes direct from the jobber to the Accountant-General's account; and, when accepted by the Accountant-General, is placed to the credit of the particular account to which it belongs. A draft for the cash is drawn out of the account on which the cash to be invested is standing, payable to the broker "on his causing the amount of stock so purchased (naming it) to be transferred to the Accountant-General's account in trust," as directed by the order. In the case of a sale, the Registrar issues a certificate stating the amount of stock to be sold, or of cash to be raised, and the title of the account on which the stock to be sold is standing, according to the directions of the order under which the sale is made. But, under the proposed system, this mode of procedure would no longer be applicable. If the balance were an amount of cash to be invested, a draft would have to be drawn for it; but out of what account would that draft be made payable? The balance to be invested would probably belong to a number of accounts spread over the four divisions of the office, and would not exactly fit any of them.

It seems also to have been supposed that, taking the price at which the balance might be invested or raised by sale as the basis of calculation, cash could be carried over direct from those accounts on which purchases might have to be made to those on which sales were to be effected; the equivalent amounts of stock in exchange for the cash to be carried from the latter accounts to the former; but in what way the stock purchased with the balance was to come to the Accountant-General's credit, or be paid for by him, is not alluded to. Even if there were no difficulty of the kind just mentioned, about obtaining and paying for the balance of stock, it would be found very objectionable to carry over from the account of one cause or matter to another, in lieu of purchasing or selling the stock; because it would introduce into one account the title of another account which had no connexion whatever with it. There would also be great complexity in the entries, arising from the fact that the amount to be invested or raised by sale on one account being large, would frequently have to be met by the bringing over to that account a number of sums of stock or cash from accounts where the amount to be raised by sale or invested was comparatively small; and, also, from its being necessary to split up some one or more of the particular sums of cash respectively directed to be invested and raised, and the stock equivalent thereto, into two or more portions, as such sums would seldom, if ever, exactly correspond to each other. It would, therefore, be requisite to open an account in the books of the Accountant-General, and at the Bank Chancery Office, in the nature of a stock-jobbing account; to which the amounts of cash to be invested and of stock equivalent to the amounts to be raised by sale would have to be carried over, and from which the amounts of stock and cash to answer the investments and sales would be carried back to the several accounts. Out of this stock-jobbing account a draft for the purchase of stock would have to be drawn on those days when the investments were in excess; or a sale of stock made to raise the balance if the amount to be raised by sales should be the greater. But what evidence would the Accountant-General have to satisfy himself that he was doing right in signing such a draft, or in parting with the stock necessary to raise such an amount? and would the Registrar issue a certificate for the sale of the stock when there was a balance of cash to be raised?—and, if so, how would he be satisfied as to the amount of the balance? The Registrar's certificate for sale is at present an echo of the particular order; but in selling

stock to raise the balance, there would be no apparent connexion between the orders of the Court and the amount to be so raised, as that would partly depend upon the total amount of investments which had to be made, consisting of those bespoken under orders, and also, it might be, of those for which no request is now necessary.

Other difficulties would also arise with respect to the distribution of the stock and cash among the various accounts to which they would respectively belong. At present, all the calculations connected with the purchases and sales of stock are performed by the broker; and the results, with the price and the amount of the brokerage, supplied to the Accountant-General's office, in the shape of a contract note for each purchase and sale. The price of course rests upon the authority of the broker; but the amount of stock expressed in such note as having been bought or sold to invest or to raise the amount of money therein mentioned, and the amount of brokerage, are carefully checked by the Accountant-General's clerks. But under the proposed system, the broker's contract note would have reference only to the amount of stock bought or sold by him for the stock-jobbing account. The calculations necessary to ascertain the various amounts for the several carryings over in lieu of purchases and sales would have to be made at the Accountant-General's office in addition to those which, as just stated, are now done there; and it would employ several clerks, pretty well skilled in calculation, to perform this duty. It should be remembered too, that the transactions connected with the stock-jobbing account would at all times have a relation to the whole office; and as each of the divisions thereof (of which there are four) is quite distinct from any of the others, and knows nothing of what operations may have been bespoken in them, it would be necessary to have a separate department to attend to it; more especially as the work of each division is already quite as much as can be efficiently performed therein; and the calculations connected with the stock-jobbing account would have to be checked, in the same way as those of the broker now are, in the particular division to which they relate.

It is of course assumed that the price at which the balance might be invested or raised would be the price to be used in making all the calculations of the day; but suppose the balance, being large, should be invested or raised at more than one price, how would the Accountant-General fix upon the price at which the calculations should be made? The broker now has all the transactions of the day given to him separately; and he executes them in the best way he can for the parties. Each purchase and sale is a regular transaction with a jobber, carried out through the intervention of the broker, who is competent to agree upon the price; but the Accountant-General would stand in a very different position. He would have no authority for giving the higher or the lower price to one purchase or sale rather than to another; and, if he attempted to deal equal justice to all, he would, in the case proposed, have to apportion the amounts of stock and cash among the various accounts. The transactions then, however, could no longer be regarded as purchases or sales, inasmuch as no price could be recorded as that at which they had severally been effected.

Again, purchases and sales, where the circumstances are of a pressing nature, are not unfrequently sent to the broker after the regular commissions of the day have been given to him; and the contracts for them are sent up with the rest in the evening. Now as these purchases or sales could not be included in the balance, they must either be postponed until the next day, or be done independently, and in this way also the anomaly of two prices in the day's transactions would probably be occasioned.

It happens also sometimes, perhaps from some mistake in the amount, or defect in the order, discovered after the commission has been given, that a purchase or sale contract note has to be altered in amount, or postponed, or cancelled. Under the proposed system such an occurrence might be attended with serious inconveniences. If the transaction to be so altered or put off were of the same kind as, but less than the commission given to the broker, it would only increase or diminish the amount which he would have to invest or to raise; it might of course introduce a new price into the day's transactions if the amount were increased, and he had already executed his commission, and so give rise to the difficulty above referred to, of having two prices. Suppose, however, that the transaction to be postponed were of the same kind as the commission given to the broker to execute, but were larger in amount than the balance which he had been instructed to deal with, it would reverse the nature of the transaction; rendering a sale necessary where he had contracted to buy, and a purchase in the place of a sale, and introducing, in all probability, a new price, which would render fresh calculations necessary for the whole transactions of the day. If the mistake were not discovered until on or near the day for which the transactions had been contracted to be done, it might render

necessary the postponement of the whole of them until the following transfer day, which would no doubt occasion great disappointment and consequent complaint. The cancelling or altering of such contract notes not unfrequently takes place, and although attended with inconvenience, it does not affect in any way the other transactions of the day, because each purchase and sale is independent of the rest.

There would be considerable risk also of occasionally selling, or at least of contracting to sell, a larger sum of stock than would be applicable to a particular sale. The Registrar's certificate, under the present system, shows the broker in each case of sale how much stock there is for him to operate upon, and where the sale is to raise a given sum of money, his experience in such matters enables him to judge whether the sufficiency of the amount of stock applicable to the sale is doubtful. As soon as he knows the price at which he will have to sell the stock, he turns out any such commission which he cannot execute, and returns the Registrar's certificate to the Accountant-General's office. The inconvenience is but slight, and is entirely confined to the particular sale; but if the broker were commissioned to invest or raise the balance, the non-sufficiency of the stock on any account applicable to a proposed sale would not be known until the calculations were made for ascertaining the amount to be carried over in exchange for the cash to be raised. The same difficulty would then arise, as in the case just referred to, of having to postpone or cancel any of the transactions. In those cases where the whole stock on the account might be large enough to meet the sale, but a part only of such stock was applicable to it, there would be the danger of actually carrying over the stock and completing the purchase or sale in respect of the balance before the mistake was discovered, and the difficulty of correcting the error would be materially increased.

The sources from which any pecuniary advantage could be derived, if the proposal of investing or selling only the balance were adopted, would be, 1st, the brokerage in respect of the amounts of cash which would be kept back from the broker, as before mentioned, and carried over instead of being invested and raised by him as at present; and, 2ndly, the ordinary difference between the buying and selling prices of stock, commonly called the "turn of the market." It is the profit to be derived from the first of these sources alone which the Committee on Fees, in their Report before referred to, recommended should be paid over to the Suitors' Fee Fund; but the witnesses who estimated that there would be a gain "properly available for the Suitors' Fund," of 11,000*l.* a year, evidently included both sources of profit in their calculations.

1st. As to the profit arising from the proposal in respect of brokerage. The rate of brokerage charged to the suitor upon purchases and sales of stock is the usual one-eighth per cent., or 2*s.* 6*d.* in the 100*l.*; but three-fifths of this amount, or 1*s.* 6*d.* per cent., is paid into "the Suitors' Fee Fund Account," leaving 1*s.* per cent. to be retained by the broker for his own use. The saving therefore in respect of brokerage would only be 1*s.* per cent. upon the amount of stock which would have been purchased or sold, in respect of the commissions each day kept back from the broker. To estimate the amount which would be so kept back, an account has been taken of the commissions given to the broker, in respect of the three principal stocks, consols, reduced annuities, and new 3*l.* per cent. annuities in the months of January, February and March of the present year. The account is appended to this statement, and it appears from it, that during those months there was cash to be invested,—

	£	s.	d.	£	s.	d.
in consols - - -	835,595	1	1			
in reduced annuities - -	67,719	18	10			
in new 3 <i>l.</i> per cent. annuities	35,287	4	3			
				938,602	4	2

Cash to be raised by sale—

of consols - - -	165,630	18	5
of reduced annuities - -	3,937	0	5
of new 3 <i>l.</i> per cent. annuities	3,577	9	9
			173,145 8 7

Total cash invested in, and raised by sale of the above stocks - - - £1,111,747 12 9

Taking 92 as an average price, the above total would be represented in stock by - - - £1,208,421 6 10

From the account appended it also appears that during the same three months the broker was commissioned to sell the following amounts of stock:—

Consols -	-	286,570	11	11
Reduced annuities	-	6,854	3	4
New 3 <i>l.</i> per cent. annuities		21,127	17	10
				314,552 13 1

And he had also to purchase in consols - - - 2,049 19 10

Making a total of purchases and sales in the above stocks during the months of January, February, and March of - - - £1,525,023 19 9

Now as the purchases and sales of stock for the whole of last year amounted to about 5,988,276*l.* (rather less than four times the above total), it may fairly be assumed that the 1,525,023*l.* 19*s.* 9*d.* stock represents rather more than one-fourth of a year's transactions, more especially as purchases and sales of East India stock have been excluded from the account. If therefore the portion of the last-mentioned total, which would be kept back from the broker under the operation of the proposed plan, be ascertained and multiplied by four, it will give a pretty accurate idea of the amount by which the sales and purchases of the year would be diminished by adopting it. Referring again to the appended table, the column No. 4 shows the daily amounts of cash which would have been kept back from investment during the three months; so that it appears there would have been in respect of—

Consols - - -	114,683	4	9	less cash invested.
Reduced annuities - -	452	10	4	ditto.
New 3 <i>l.</i> per cent. annuities - -	1,169	11	9	ditto.

Making a total of £116,305 6 10

Taking this at the average price of 92*l.*, it would represent 126,418*l.* 16*s.* 11*d.* stock, and adding thereto the sums of 600*l.* and 1,449*l.* 19*s.* 10*d.* consols, which the broker was commissioned to purchase, as mentioned in the earlier part of this statement, and which under the proposed plan would not have had to be done, there will result the sum of 128,468*l.* 16*s.* 9*d.*; and this multiplied by four, will give 513,875*l.* 7*s.* as the total amount by which the purchases of stock made by the broker in a year would be diminished. Of course there would be the same amount less of stock to be sold; as every purchase of stock kept back under the proposal implies a sale of the same amount of stock also kept back; multiplying therefore the last-mentioned amount by two, and there results 1,027,750*l.* 14*s.* as the total stock which would be kept back from being dealt with by the broker in a year, and 1*s.* per cent. upon this last sum would amount to 513*l.* 17*s.* 6*d.*, which may be taken to represent the amount of annual profit which would probably be derived under the proposal in respect of brokerage upon the stocks carried over instead of being bought and sold.

2nd. As to the profit in respect of the difference between the buying and selling prices of stock.

The idea of deriving a profit from this source rests upon the assumption that the price at which stock is sold for the Accountant-General is always one-eighth less than the price at which the purchases contracted for on the same day are made. There seems, from the evidence before referred to, to be a very general impression that such is the case; but a reference to the before-mentioned report of the Select Committee on Fees (pages 48 to 51), will show a detailed statement of the commissions executed by the broker from the 10th to the 15th January 1848, with the prices at which they were done; from which it appears that the sales during that period were made at the same respective prices as the purchases. By referring also to a Parliamentary Paper, entitled "Particulars of the gross amount of consols bought and sold, &c., during the years 1851 and 1852," No. 104 (ordered to be printed 18th March 1853), it will appear that during those years the same state of things frequently occurred. Although there may be, speaking generally, the difference of an eighth between the buying and selling prices of stock on the exchange, yet when the amount of stock to be purchased with the cash which the broker is commissioned to invest is large in proportion to the amount he has to sell, or when the converse is the case, it is understood that he is able to execute both commissions at the same price; he bargains with the jobber from whom he buys the stock to take back the comparatively small amount which may have to be sold at the price at which the purchase is made; a similar agreement being come to when the sales are much in excess. That the sales and purchases are frequently done at the same prices is also shown by the appended table; the prices at which the purchases and sales, therein contained, were actually made appearing in a column in the same line with them. If then it were attempted, as suggested, to realize a profit for the Suitors' Fee Fund from the source now under consideration, it would be done by estimating the amount of stock to be carried over instead of being sold, at a price one-eighth per cent. less than that at which the balance was purchased; or if the balance had to be sold, by estimating the amount to be carried over instead of being purchased, at a price one-eighth per cent. more than that at which the sale was effected. But a manifest injustice would by this course be frequently committed, because the stock would in many cases be sold at a lower price than would have been obtained for it by the broker under the present system, and it would often happen that the sales of stock which it would be necessary to make in

consequence, as before mentioned, of there being *nothing to set against them*, would be done more advantageously for the parties than the proposed exchanges.

The profit which might be rendered available for the Fee Fund from the ordinary difference between the buying and selling price of stock, would, of course, be the one-eighth so deducted from or added to the broker's price in the manner above mentioned. It would, therefore, amount in a year to one-eighth per cent. upon the total amount of either the purchases or sales kept back from the market during that period. This has already been estimated, for the purpose of calculating the amount which would be saved in respect of brokerage, at 513,875*l.* 7*s.*, and one-eighth per cent. thereon will be 642*l.* 6*s.* 10*d.*, representing the profit in question; subject however to the loss which the suitors would incur in getting a lower price or giving a higher price for their stock than in some cases they would do under the existing system.

The Committee on Fees, it has been remarked, only recommended the appropriation for the Fee Fund of the profit arising from the first of the two sources which have been considered, viz. the brokerage which would be saved from the adoption of the proposal. They left to the suitor any benefit to be derived in respect of the price at which the transactions might be effected. The annual amount available for the Fee Fund would therefore be simply the 513*l.* 17*s.* 6*d.* above mentioned, which would certainly not be sufficient for the payment of the salaries of the additional clerks who would have to be employed to make the calculations now performed through the medium of the broker, to keep the necessary stock accounts, and to do such other work as would be necessary for effecting the exchanges of cash for stock, and stock for cash, in carrying out the proposal. Moreover, as it is estimated that the saving to the suitor in respect of price would be scarcely so much, taking into account the loss above referred to, as the profit to the Fee Fund in respect of brokerage, and as the proposal is put forward upon grounds of pecuniary advantage alone, it is submitted that there would be no adequate compensation for the difficulties and risk of error which would have to be encountered in any endeavour to give practical effect to the suggested change.

Before concluding this statement it may be as well to observe that although the recommendations of the Committee on Fees with respect to purchases and sales of stock in the Accountant-General's Office have not been adopted, the subject has not by any means been lost sight of. It was much considered by Lord St. Leonards, and his Lordship, soon after the passing of the Chancery Suitors Relief Act (15 & 16 Vict. cap. 87), proposed a plan for dispensing with the daily purchases and sales of stock altogether. An account was to be opened in the books of the Accountant-General, and in those of the Bank Chancery Office, to be called "the Stock Exchange Account," and to the credit of that account sufficient sums of the suitors' cash, and of the various kinds of stock commonly dealt with, were to be placed. The several amounts of cash which parties might wish to invest were to be carried over to the credit of the same account, and from it, equivalent sums of stock in exchange for the cash were to be carried back. A similar but opposite process was to be adopted when sales were directed to be made. As neither sales nor purchases of stock were to take place until the state of the Stock Exchange account might render them necessary, some other mode of fixing the price at which the daily transactions in the stocks were to be calculated became necessary, and it was proposed to use the medium prices as struck every day at the Bank of England. These prices were to be sent each evening to the Accountant-General's Office, and the amounts of stock and money necessary for the purchases and sales bespoke during the day were to be calculated upon them. A bill embodying this plan was introduced by Lord St. Leonards into the House of Lords, in February 1853. It was referred to a Select Committee of that house, and the whole subject was fully investigated. The Parliamentary Paper before referred to, showing the particulars of the gross amount of consols bought and sold each day for the Accountant-General during the years 1851 and 1852, with the prices given and obtained, and the Bank average prices, was prepared, and calculations were made at the Accountant-General's Office, showing the probable amount of the profit both to the Suitors and the Fee Fund, which might be expected to result from the adoption of the plan. It was then found that the anticipated profit had been greatly overestimated; partly from the sales and purchases of the same day for the Accountant-General being frequently done at the same price, instead of there always being, as had been supposed, the difference of an eighth between them; and

partly from the great difference between the amount of stock purchased and the amount sold during a year; the former being generally very much in excess of the latter. The result of the investigation was, that the clauses of the bill for giving effect to the plan were omitted, and the bill, which became the Chancery Suitors Further Relief Act (16 & 17 Vict. cap. 98) passed without introducing any change whatever into the existing system of buying and selling stock for the suitors.

The utmost amount of profit which could be derived from such a plan as that last mentioned, in respect of brokerage thereby saved, would be the two-fifths, or 1*s.* per cent., now retained by the broker, and which for the last year (1860) was 3,004*l.* 9*s.* 1*d.* But then the following charges would have to be incurred:—1st. There would be the salaries of the clerks, who would have to be employed to make the numerous calculations now performed by the broker and his assistants, and to keep the Stock Exchange account, and to make out the certificates which would be in the place of the present contract notes. It is understood that six or seven persons are frequently employed at the broker's office in doing the work connected with the purchases and sales of stock, and in very busy times even a still greater number. These persons are necessarily, from their daily avocations, expert at calculation, and well used to the work which has to be done. It would, therefore, certainly require, at least, an equal number of extra clerks at the Accountant-General's Office to perform there the work which is now done through the agency of the broker. 2ndly. There would be the brokerage payable on the stock, which it would be found necessary from time to time to purchase. Such stocks as Bank stock and East India stock, in which there are but few transactions, and Exchequer bills also, it would be necessary to buy and sell as at present; and in respect of the stocks commonly dealt in, viz., consols, reduced annuities, and new 3 per cent. annuities, as the purchases in the course of a year greatly exceed the sales in amount, a much larger sum of cash would be annually brought to the Stock Exchange account for investment than would be taken from it to answer the sales; and therefore there would be an accumulation of cash on that account, and consequently a corresponding lessening of the stock. Thus, during last year, the amount of stock purchased was about 3,790,524*l.*, and the amount sold about 2,197,751*l.*; the difference between these two amounts, equal to 1,592,773*l.*, would have had to be purchased before the dividends accrued, to avoid the enormous loss of interest which would otherwise be incurred. Supposing the cash to have accumulated on the Stock Exchange account regularly throughout the year, there would have been about 790,000*l.* to purchase before the July dividend accrued, and the like amount in the following half-year. The full brokerage upon 1,592,773*l.* would be 1,990 19*s.* 1*d.*, and it is evident that the deduction, which would have to be made from the profit to arise from the plan, on account of the two charges referred to, would amount to a considerable sum.

In addition to the above charges on the profit, there would be the risk of loss from a rise taking place in the price of the funds, at or about the time when it *had become necessary* that a purchase of stock should actually take place for the Stock Exchange account. Although the exchanges in lieu either of purchases or sales might be frequently calculated at a better price than that at which stock is bought or sold, yet the suitors would be subject to the daily fluctuations of the funds as at present. Nothing would be gained in that respect by the operation of the plan; but if at the time when it was necessary to invest the cash which had accumulated on the Stock Exchange account, the price of the stock to be purchased should be higher than the average Bank price at which the exchanges had been made since the previous investment, a loss would of course ensue. It might be said that the funds are as likely to fall as to rise, and then there would be a gain from the investment; but, generally speaking, the nearer it is to the time when the dividend becomes due, the higher the price of stock is likely to be; and a very slight increase in price would take away all chance of the small margin of the profit in respect of brokerage which might be expected to arise from carrying out the plan; besides which, the idea of introducing anything of a speculative character into the transactions connected with the Stock Exchange account, could not but be regarded as highly objectionable.

S. PARKINSON, jun.,
Chief Clerk to the Accountant-General.

Accountant-General's Office,
June 1861.

An Account of the Totals of Commissions executed by the Broker in respect of Consols, Reduced Annuities, and New 3 $\frac{1}{2}$ per Cent. Annuities, during the months of January, February, and March 1861, and of the Amount which would have been kept back from Investment under the operation of the Proposal.

CONSOLS.

Date.	Investing Price.	No. 1. Money in Consols.	No. 2. Money by Sale of Consols.	No. 3. Consols to be sold.	Sale Price.	No. 4. Amount which would have been kept back from Investment in Consols.
		£ s. d.	£ s. d.	£ s. d.		£ s. d.
January 11 - - -	91 $\frac{1}{2}$	3,475 0 0	- - -	481 14 1	91 $\frac{1}{2}$	- - -
" 12 - - -	91 $\frac{1}{2}$	6,052 8 11	1,988 13 0	7,973 7 5	91 $\frac{1}{2}$	1,988 13 0
" 14 - - -	91 $\frac{1}{2}$	6,759 10 2	529 14 3	131 17 7	91 $\frac{1}{2}$	529 14 3
" 15 - - -	91 $\frac{1}{2}$	2,065 17 9	492 18 10	1,742 17 10	91 $\frac{1}{2}$	492 18 10
" 16 - - -	91 $\frac{1}{2}$	8,786 3 1	2,203 0 4	1,923 4 9	91 $\frac{1}{2}$	2,203 0 4
" 17 - - -	91 $\frac{1}{2}$	18,862 5 7	338 1 6	201 10 1	91 $\frac{1}{2}$	338 1 6
" 18 - - -	91 $\frac{1}{2}$	11,465 2 5	1,088 10 8	599 19 1	91 $\frac{1}{2}$	1,088 10 8
" 19 - - -	91 $\frac{1}{2}$	49,989 18 9	1,282 6 11	9,810 0 8	91 $\frac{1}{2}$	1,282 6 11
" 21 - - -	91 $\frac{1}{2}$	4,554 16 7	221 11 7	297 6 0	91 $\frac{1}{2}$	221 11 7
" 22 - - -	91 $\frac{1}{2}$	33,878 14 2	6,182 15 4	1,201 17 10	91 $\frac{1}{2}$	6,182 15 4
" 23 - - -	91 $\frac{1}{2}$	15,398 8 6	4,073 5 5	866 14 7	91 $\frac{1}{2}$	4,073 5 5
" 24 - - -	91 $\frac{1}{2}$	13,278 0 10	511 1 1	3,978 8 9	91 $\frac{1}{2}$	511 1 1
" 25 - - -	91 $\frac{1}{2}$	8,700 16 6	400 13 3	32 11 11	91 $\frac{1}{2}$	400 13 3
" 26 - - -	91 $\frac{1}{2}$	1,710 15 9	41,636 16 4	886 16 7	91 $\frac{1}{2}$	1,710 15 9
" 28 - - -	91 $\frac{1}{2}$	13,109 17 3	49 16 1	625 3 0	91 $\frac{1}{2}$	49 16 1
" 29 - - -	91 $\frac{1}{2}$	987 15 11	1,435 18 0	- - -	91 $\frac{1}{2}$	987 15 11
" 30 - - -	91 $\frac{1}{2}$	1,456 6 0	2,577 7 3	2,062 4 8	91 $\frac{1}{2}$	1,456 6 0
" 31 - - -	91 $\frac{1}{2}$	3,763 5 0	189 14 5	59 9 2	91 $\frac{1}{2}$	189 14 5
February 1 - - -	92	16,311 12 9	1,027 5 3	2,168 10 1	92	1,027 5 3
" 2 - - -	92 $\frac{1}{2}$	11,243 19 8	1,192 7 2	8,158 8 11	92 $\frac{1}{2}$	1,192 7 2
" 4 - - -	92 $\frac{1}{2}$	56,478 10 5	607 11 6	3,794 14 2	92 $\frac{1}{2}$	607 11 6
" 5 - - -	91 $\frac{1}{2}$	5,016 15 9	510 0 3	8,053 18 8	91 $\frac{1}{2}$	510 0 3
" 6 - - -	91 $\frac{1}{2}$	11,518 0 5	2,645 7 1	9,121 0 8	91 $\frac{1}{2}$	2,645 7 1
" 7 - - -	91 $\frac{1}{2}$	5,124 17 9	523 6 3	298 7 7	91 $\frac{1}{2}$	523 6 3
" 8 - - -	92	10,759 13 9	431 5 4	27,826 10 10	91 $\frac{1}{2}$	431 5 4
" 9 - - -	91 $\frac{1}{2}$	2,433 2 2	577 17 0	11,661 17 8	91 $\frac{1}{2}$	577 17 0
" 11 - - -	92	7,976 0 11	48 12 9	1,056 13 5	92	48 12 9
" 12 - - -	92	41,189 7 2	103 17 1	- - -	92	103 17 1
" 13 - - -	92	6,571 6 10	475 15 9	1,840 10 6	92	475 15 9
" 14 - - -	91 $\frac{1}{2}$	4,878 14 2	604 3 10	58 4 5	91 $\frac{1}{2}$	604 3 10
" 15 - - -	91 $\frac{1}{2}$	25,554 14 1	458 8 3	1,597 18 5	91 $\frac{1}{2}$	458 8 3
" 16 - - -	91 $\frac{1}{2}$	439 0 10	5,044 1 4	53,882 8 1	91 $\frac{1}{2}$	439 0 10
" 18 - - -	91 $\frac{1}{2}$	15,868 14 1	40 6 3	- - -	91 $\frac{1}{2}$	40 6 3
" 19 - - -	91 $\frac{1}{2}$	18,028 4 0	676 16 11	- - -	91 $\frac{1}{2}$	676 16 11
" 20 - - -	91 $\frac{1}{2}$	4,946 6 1	327 19 6	7,331 17 6	91 $\frac{1}{2}$	327 19 6
" 21 - - -	91 $\frac{1}{2}$	10,893 18 5	- - -	- - -	91 $\frac{1}{2}$	- - -
" 22 - - -	91 $\frac{1}{2}$	3,948 17 1	1,473 7 3	1,067 5 9	91 $\frac{1}{2}$	1,473 7 3
" 23 - - -	91 $\frac{1}{2}$	39,234 7 11	10,427 13 7	3,745 6 3	91 $\frac{1}{2}$	10,427 13 7
" 25 - - -	91 $\frac{1}{2}$	26,986 0 3	10 4 0	- - -	91 $\frac{1}{2}$	10 4 0
" 26 - - -	91 $\frac{1}{2}$	1,907 1 3	248 19 6	1,024 4 7	91 $\frac{1}{2}$	248 19 6
" 27 - - -	91 $\frac{1}{2}$	9,955 13 4	2,305 2 2	1,154 1 11	91 $\frac{1}{2}$	2,305 2 2
" 28 - - -	91 $\frac{1}{2}$	20,234 1 9	386 14 5	842 7 7	91 $\frac{1}{2}$	386 14 5
March 1 - - -	91 $\frac{1}{2}$	10,523 19 5	2,461 0 6	1,282 11 7	91 $\frac{1}{2}$	2,461 0 6
" 2 - - -	91 $\frac{1}{2}$	35,852 0 4	793 2 0	388 16 6	91 $\frac{1}{2}$	793 2 0
" 4 - - -	91 $\frac{1}{2}$	9,491 11 6	318 12 6	1,206 17 6	91 $\frac{1}{2}$	318 12 6
" 5 - - -	91 $\frac{1}{2}$	10,187 4 1	10,497 7 4	5,293 14 1	91 $\frac{1}{2}$	10,187 4 1
" 6 - - -	91 $\frac{1}{2}$	10,004 18 9	381 18 6	3,518 7 3	91 $\frac{1}{2}$	381 18 6
" 7 - - -	91 $\frac{1}{2}$	8,819 7 11	200 13 3	3,553 0 0	91 $\frac{1}{2}$	200 13 3
" 8 - - -	91 $\frac{1}{2}$	2,700 0 0	2,062 0 1	9,268 2 9	91 $\frac{1}{2}$	2,062 0 1
" 9 - - -	91 $\frac{1}{2}$	9,737 2 7	4,414 13 9	4,563 14 0	91 $\frac{1}{2}$	4,414 13 9
" 11 - - -	91 $\frac{1}{2}$	9,230 2 7	1,058 7 10	1,978 4 7	91 $\frac{1}{2}$	1,058 7 10
" 12 - - -	91 $\frac{1}{2}$	5,865 11 6	3,514 7 11	949 0 5	91 $\frac{1}{2}$	3,514 7 11
" 13 - - -	91 $\frac{1}{2}$	18,451 7 2	3,246 14 5	12,489 15 5	91 $\frac{1}{2}$	3,246 14 5
" 14 - - -	92	9,470 9 2	321 9 10	558 2 0	92	321 9 10
" 15 - - -	92 $\frac{1}{2}$	29,897 4 6	1,553 14 11	1,419 5 11	92 $\frac{1}{2}$	1,553 14 11
" 16 - - -	92 $\frac{1}{2}$	5,206 13 8	256 18 11	1,321 8 5	92 $\frac{1}{2}$	256 18 11
" 18 - - -	92	15,574 1 4	- - -	6,818 12 2	91 $\frac{1}{2}$	- - -
" 19 - - -	92	23,892 8 9	6,892 2 9	3,742 7 8	91 $\frac{1}{2}$	6,892 2 9
" 20 - - -	92	25,511 15 10	884 18 5	6,169 15 11	92	884 18 5
" 21 - - -	91 $\frac{1}{2}$	1,345 8 0	162 12 6	6,376 13 10	91 $\frac{1}{2}$	162 12 6
" 22 - - -	92	14,131 1 0	8,815 1 4	525 12 6	92	8,815 1 4
" 23 - - -	92	17,908 9 0	22,445 15 0	37,586 18 5	91 $\frac{1}{2}$	17,908 9 0
		835,595 1 1	165,630 18 5	286,570 11 11		114,683 4 9

REDUCED ANNUITIES.

Date.	Investing Price.	No. 1. Money in Reduced Annuities.	No. 2. Money by Sale of Reduced Annuities.	No. 3. Reduced Annuities to be sold.	Sale Price.	No. 4. Amount which would have been kept back from Investment in Reduced Annuities.
1861.		£ s. d.	£ s. d.	£ s. d.		£ s. d.
January 8	91½	1,357 9 4	71 15 6	—	91½	71 15 6
" 9	—	—	695 10 4	930 0 0	91½	—
" 11	—	—	—	210 0 0	91½	—
" 15	—	—	57 19 3	—	91½	—
" 16	—	—	2,540 15 6	505 8 6	91½	—
" 17	—	—	—	304 2 6	91½	—
" 18	91¼	322 10 0	—	455 8 6	91¼	—
" 19	—	—	—	1,425 19 2	91¼	—
" 21	91¼	3,800 0 0	—	—	—	—
" 22	—	—	—	132 16 3	91½	—
" 23	91½	661 0 6	—	—	—	—
" 25	—	—	—	384 12 9	91¼	—
" 26	—	—	111 7 4	—	91¼	—
" 28	—	—	25 0 0	—	91¼	—
" 29	91½	1,100 0 0	—	—	—	—
" 30	—	—	—	649 13 2	91½	—
" 31	—	—	—	374 13 4	91½	—
February 6	91¾	22 0 8	—	—	—	—
" 8	92	9,600 0 0	59 6 8	—	92	59 6 8
" 9	—	—	38 15 0	—	91¾	—
" 19	—	—	7 10 0	—	91¾	—
" 20	91½	47 7 1	—	508 6 8	91½	—
" 21	91¼	97 5 9	—	—	—	—
" 22	—	—	7 12 8	—	91½	—
" 23	91¼	21,200 0 0	—	—	—	—
" 27	91½	95 5 2	—	78 8 7	91½	—
March 1	91½	274 10 0	185 18 6	436 0 6	91½	185 18 6
" 2	91½	4,617 17 1	—	8 13 5	91½	—
" 4	91¼	3,100 0 0	—	—	—	—
" 5	91½	21,424 13 3	135 9 8	500 0 0	91½	135 9 8
		67,719 18 10	3,937 0 5	6,854 3 4		452 10 4

NEW £3 PER CENT. ANNUITIES.

Date.	Investing Price.	No. 1. Money in New £3 per Cent. Annuities.	No. 2. Money by Sale of New £3 per Cent. Annuities.	No. 3. New £3 per Cent. Annuities to be sold.	Sale Price.	No. 4. Amount which would have been kept back from Investment on New £3 per Cent. Annuities.
1861.		£ s. d.	£ s. d.	£ s. d.		£ s. d.
January 8	—	—	34 7 4	—	91½	—
" 9	—	—	211 5 8	—	91½	—
" 15	91¾	87 14 9	136 6 0	—	91¾	87 14 9
" 16	91¼	191 17 4	—	—	—	—
" 18	—	—	—	1,290 17 3	91½	—
" 19	—	—	49 16 8	—	91¼	—
" 24	—	—	38 14 2	—	91¼	—
" 25	91¾	443 3 6	1,186 3 1	—	91¼	443 3 6
" 28	91¾	32 8 3	—	—	—	—
" 30	—	—	251 0 4	—	91½	—
February 1	—	—	71 12 0	—	91¾	—
" 2	—	—	—	50 0 0	92½	—
" 6	91¾	74 4 1	207 1 4	—	91¾	74 4 1
" 8	92	20,000 0 0	—	—	—	—
" 11	—	—	—	79 13 7	91¾	—
" 15	—	—	—	516 15 5	91¾	—
" 16	—	—	73 0 4	477 12 7	91¼	—
" 20	—	—	—	2,179 14 1	91½	—
" 22	91½	212 18 4	—	—	—	—
" 23	91¾	1,000 0 0	—	904 0 8	91¾	—
" 26	91¼	1,840 17 9	73 18 9	—	91¼	73 18 9
" 27	91½	25 16 10	—	11,607 16 5	91½	—
March 1	91½	7,831 5 0	—	—	—	—
" 2	91½	107 5 4	860 18 9	—	91½	107 5 4
" 4	91¼	991 7 5	—	3,854 14 6	91¼	—
" 5	91¼	2,369 4 9	383 5 4	166 13 4	91¼	383 5 4
" 6	91½	79 0 11	—	—	—	—
		35,287 4 3	3,577 9 9	21,127 17 10		1,169 11 9

No. V.

STATEMENT of the BUSINESS performed in the ACCOUNTANT'S CHANCERY OFFICE at the BANK OF ENGLAND.—
(Furnished by the Bank of England.)

1. The business in the Accountant's Chancery Office at the Bank is transacted by seven clerks, and the accounts therein consist of cash, stock, securities, and miscellaneous effects of various kinds, and the number of such accounts is 22,757, whereof (as distinguished at the office of the Accountant-General in Chancery) 17,230 are stock and cash accounts, and the remaining 5,527 are cash accounts only.

* Seven clerks is the fixed staff, but considerable strength is added for the purposes of calculating and writing on the dividends in each quarter, and in taking the annual balance.

2. When cash is paid into the Bank to the account of the Accountant General of the Court of Chancery, it is accompanied by a direction in the form of a certificate from him, stating it is to be placed, in pursuance of an order of the Court, to the account of a particular cause or matter. The presentation of the direction at the general cash book office in the Bank authorizes the receipt of the amount stated therein, for which a receipt, signed by one of the cashiers, is given to the party paying it in; the entry of this receipt is made in the general cash book office at the Bank, in a cash book setting forth the substance of the Chancery Accountant General's aforesaid direction, which remains with the Bank.

The entries for the receipt and payment of cash are thus made in the cash book of the general cash book office, and the total amount is agreed at the end of each day with the public drawing office. This cash book is on the next day passed to the Chancery office, together with the directions of the Accountant-General of the Court of Chancery and the drafts. The several entries in the cash book are then journalized in the manner used in double entry, and from the journal the amounts received or paid are posted to the credit or debit of the particular cause or matter mentioned. Twice in the week the accounts of cash, stock, and securities in possession of the Bank belonging to the suitors are in the security ledger debited and credited with the amounts wherewith the several causes and matters have in the meantime been credited and debited, thus perfecting the double entry.

3. Cash placed to the credit of a cause or matter is afterwards frequently directed to be laid out in purchase of stock or other securities. The Accountant-General of the Court of Chancery then gives a draft to his broker for the amount, which draft states the cause or matter to be debited; the draft is then paid, entry made in the cash book at the bank, and the ledger account of the Accountant-General of the Court of Chancery in the drawing office debited with this and other payments, if any, in one total as before mentioned.

The purchase and transfer of stock is made to the Accountant-General of the Court of Chancery in trust to attend the orders of that Court in the cause or matter mentioned in the order for such purchase or transfer. The Accountant-General of the Court of Chancery accepts such transfer, and certifies that he has accepted so much stock as therein is stated; this certificate being sent to the Chancery Office at the Bank; the account of the cause or matter is credited with the said amount of stock, and the security ledger is debited with the same amount under the head of the respective stock.

When a sale or transfer of stock or securities out of court is directed to be made, a registrar's certificate, reciting the title of the cause or matter, the total amount of stock, and the amount to be transferred or sold pursuant to an order of court, is issued to this office for examination; those for sale are passed to the Chancery broker, and those for transfer are returned to the Accountant-General's Office the same day.

Entries of these transactions are made in the security ledger every three days (in the same manner as the cash as before stated), when the totals of the stocks carried to or from the several causes and matters are collectively posted under the respective titles of such securities.

4. Drafts drawn by the Accountant-General of the Court of Chancery are for cash standing to the credit of causes or matters, paid in as before described or on account of dividends or interest on stock standing in his name in trust, which interest is carried to the credit of the several causes and matters as will be herein-after described.

All these drafts are (previous to payment in the drawing office) presented at the Chancery Office at the Bank to be examined, and to receive a mark certifying that sufficient effects are on the account of the cause or matter. These drafts are then paid and entered in the cash book as before

mentioned, and such drafts and book are the next day passed to the Chancery Office at the Bank, where they are posted as already explained; the drafts remain in this office, and are so arranged as to be individually referred to, if necessary.

Payments from the suitors' account, intituled, "Account of interest arising from monies placed out for the benefit and better security of the suitors of the High Court of Chancery," are made without drafts, pursuant to orders of Court; these orders are kept in the General Cash Book office at the Bank.

The above-mentioned payments are made to the Accountant-General of the Court of Chancery and his clerks and many other officers of the Court, for salaries, pensions to retired officers, rent of chambers, &c.

5. The principal books in use in the Chancery Office at the Bank are four alphabets, thirteen journals, and thirty-six ledgers; nine of the journals are in current use, four being for the entry of cash, four for stock and other securities, and one called a carrying over journal, for the entry of cash, stock, and other securities carried from one cause or matter to another cause or matter when so directed by a certificate of the Chancery Accountant-General; the remaining four of the journals are for dividends. Thirty of the ledgers are in current use; five are for dormant causes (that is, such causes as remain without any alteration for a length of time), and one called a security ledger, in which as before mentioned, is entered a general account of cash, debtor and creditor, and of stock and securities under their respective heads.

6. When the public stock transfer books kept at the Bank are closed for the dividends to be prepared, an alphabetical statement, copied from one received from the Accountant-General of the Court of Chancery is made out in the Chancery Office at the Bank of England of the amounts of stock standing in the books on account of the several causes and matters, and the interest on the amount of each respectively calculated, and also the income tax on each amount of dividend, and this statement is signed by the Chief Accountant of the Bank, and sent to the Chancery Accountant-General's Office, and is compared with a similar statement transmitted from that office to the Bank, from which the several accounts of causes and matters are respectively credited for the amount of such dividend, income tax being deducted therefrom in all cases.

The suitors not liable to income tax make their claims for exemption through the Inland Revenue Department at Somerset House, and that department is supplied with certificates from this office of the dividends paid to the parties respectively.

All charity matters in Chancery are supplied with similar certificates.

When the dividends are in course of payment at the Bank to the public, one of the Bank cashiers by a general power of attorney from the Accountant-General of the Court of Chancery (which is deposited at the general cash book office at the Bank), receives in one sum the dividends on the stock in his name, and pays the same to his account at the Bank.

The Chancery Accountant-General appears in the several funds and stocks as holder of some fifty millions in trust, of which in the Chancery Office at the Bank each of the 17,230 suitors accounts receives a distributive portion, but until an order for distribution of such stock has been made by the Court it is not at such suitors' disposal, yet the dividends and interest after being carried to the respective accounts, are in the meantime, by the drafts of the Chancery Accountant-General when so directed by orders of the Court, paid to the parties to whom the same have been adjudged by the Court to belong.

7. The Chancery Accountant-General, pursuant to the orders of the Court from time to time issues a certificate directing certain sums of cash, stock, or other securities to be carried from one cause or matter to another cause or matter, which are entered in the carrying over journal, and such respective causes or matters are respectively debited and credited for the same, and a certificate of such respective carrying over is signed by the Chief Accountant of the Bank or his deputy, and remitted to the office of the Chancery Accountant-General.

8. The Chief Accountant of the Bank is also frequently directed by orders of the Court of Chancery under the Trustee Act of 1850, to receive dividends and transfer stock standing in the names of persons acting as trustees, who are not to be found, or are out of the jurisdiction of the Court, and the same order also sometimes directs the Chief

* See Appendix.

Accountant at the Bank to pay the amount of money so received and transfer such stock to the Chancery Accountant General in trust in the cause or matter mentioned in such order, and for the payment of such amount of dividends so made by the Chief Accountant at the Bank, he obtains a receipt from one of the cashiers, which is remitted to the office of the Chancery Accountant-General, usually by the solicitor in the cause as in other cases.

9. The totals of every three days' transactions are sent to the Chancery Accountant-General's Office, to be compared with their books. The balance of cash in each of the four divisions is also forwarded every Monday, and on the first of each month a statement of the amount of cash and the total amount of cash and securities in each division.

10. On the 1st October in every year the balances of all the accounts are taken, and this account contains the names or titles alphabetically of all the causes and matters, and in the several corresponding columns (headed with the

title of the several stocks, securities, &c.) are inserted the amount of each on the account of each cause or matter, and such respective columns of securities agree with the respective collective amount in the security ledger. This detailed statement is compared with a similar one, prepared in the office of the Chancery Accountant-General, and the Chief Accountant of the Bank signs an abstract thereof. This abstract, containing the amount standing in the name of the Chancery Accountant-General in all the several stocks, and of every other security, cash, and deposits, is delivered to the Lord Chancellor, and shows a complete view of all the suitors' property remaining in the Court of Chancery.

Bank of England,
26th March 1861.

The following is a copy of the statement of the balances of the suitors' stock and cash in the Court of Chancery, on the 1st October 1860, as transmitted to the Lord Chancellor by the Bank of England.

Bank of England, 1st October 1860.

This is to certify that the following sums of Cash and Securities with other effects belonging to the Suitors of the High Court of Chancery are this day standing in the Books kept at the Bank, in the name of William Russell, Esquire, Accountant-General of the said Court, in trust, and to the Credit of the several Accounts of the said Suitors, and which have been compared with the Books kept for the Suitors at the aforesaid Accountant-General's Office and agreed therewith.

	£	s.	d.
Total Amount of the Suitors' Cash - - - -	2,821,067	8	8
Cash laid out on Suitors' Fund, Account A, pursuant to several Acts of Parliament - - - -	2,464,744	1	10
Cash in Custody of the Bank - - - -	356,323	6	10
Bank 3 per cent. Annuities - - - -	38,038,019	13	2
Reduced Annuities - - - -	7,267,018	2	6
New 3 per cent. Annuities - - - -	5,497,331	12	1
Bank Stock - - - -	281,797	3	3
Exchequer Bills - - - -	301,700	0	0
East India Stock - - - -	122,828	15	7
New 5 per cent. Annuities - - - -	4,217	19	5
New 3½. 10s. per cent. Annuities - - - -	3,877	10	0
New 2½. 10s. per cent. Annuities - - - -	14,300	0	0
East and West India Dock Stock - - - -	34,982	11	8
London Dock Stock - - - -	69,919	18	11
Royal Exchange Assurance Stock - - - -	3,470	16	2
Hudson's Bay Stock - - - -	2,938	1	1
London and North-western Railway Stock - - - -	16,318	0	0
Saint Katherine Dock Stock - - - -	14,950	0	0
Consolidated Stock of the East India Railway Company - - - -	3,470	0	0
Annuities for 30 years from 5th April 1855 - - - -	10	9	7
Annuities for term of years ending 10th October 1864 - - - -	35	0	0
Notes, Bills, and Private Bonds - - - -	27,188	2	10
Mortgages - - - -	4,732	11	8
Globe Insurance Shares, 29 Shares of 100 <i>l</i> . each - - - -			
Westminster Chartered Gas Light Company, two Shares of 50 <i>l</i> . each - - - -			
East India Company's 4 <i>l</i> . per cent. Transfer Loan Stock 26,250 rupees - - - -			
Exchequer Orders, 5 <i>l</i> . per cent. per annum. - - - -			
	£52,065,429	14	9

The following articles, the value of which is not ascertained, belong to the under-mentioned Matters and Causes.

Matter—Anonymous - - - -	A box containing Jewels.
" Bariatinsky Princess C. E. L. M. F., of unsound mind. - - - -	A box, labelled Jewels.
" Colman, Geo., a lunatic - - - -	A paper said to be his will.
" Wakeman, M. T., of unsound mind. - - - -	A tin box, labelled "Plate, Jewellery, and Trinkets."
" Fludger, Sir Samuel, Bart. of unsound mind. - - - -	Five chests and one box, labelled, "Plate and Jewellery."
Cause—Blount v. Nolan - - - -	A tin box, endorsed with this cause "Foreign Securities."
" Davies v. Hallett - - - -	Shares inclosed in a parcel, endorsed this cause.
" Greville v. Greville, the Account of P. E. J. Greville, &c. - - - -	A tin box, inscribed this cause and Account Securities.
" Greville v. Greville, the Account of Lady C. E. Dawson, &c. - - - -	Do. do.
" E. C. Bar, de Cetto, &c. - - - -	Do. do.
" The Secretary of State in Council of India v. Melfan. - - - -	A tin box, endorsed this cause, Foreign Securities.
" Jones v. Lloyd - - - -	A bag of clipped money.
" Kell v. Charman - - - -	A box, endorsed this cause, Securities.
" May v. Da Costa - - - -	A Debiture Deed.
" Nixon v. Few - - - -	A tin box, marked Nixon and Few, &c.
" Pritchard v. Fleetwood, &c. - - - -	A Deed of Settlement.
" Reeve v. Hancock - - - -	Two boxes of Plate, Nos. 1 and 2, marked this cause.
" Stacpoole, Duchesse de, v. Lodge. - - - -	A tin box, marked in Chancery, this cause.
" Whitmore v. Bainbrigge, &c. - - - -	A box, endorsed "these causes, Bond Securities."
" White v. Killersby - - - -	Five Tallies.

(Signed) G. E. GRAY,
Chief Accountant.

APPENDIX.

The expenses in keeping the accounts of the Court of Chancery, in the two departments, are 7,458*l*. per annum. The average balances of the last five years have been 600,000*l*.; but the balances fluctuate between very wide limits. The highest in the year 1860, was 1,590,000*l*.; the lowest, on 13th Dec. 1860, 172,000*l*. The account is sometimes overdrawn, and at those times when a balance is of most value, such as the periods of November 1857, and October 1847, the Chancery balances were very low; in fact, they are not to be relied on to the extent that ordinary mercantile balances are.

Taking 600,000*l*. as the average of the year (1860), it would be absurd in estimating the profits of such an average balance to treat it as the Bank would treat mercantile balances; which is to consider two-thirds as invested at 3 per cent., for on 13th December 1860, when the rate of interest was high, the balance was only 172,000*l*.

The Bank can only take half the average balance, and that at 3 per cent. gives - - - -	£9,000
From which deduct expenses - - - -	7,458
Leaves - - - -	£1,542

Which the Bank get for risk, pains, labour, and profit



No. VI.

STATEMENT furnished by RICHARD CLARKE, Esquire, the Accountant in Bankruptcy, at the Request of the Chancery Funds Commissioners, in order to illustrate the Comparison suggested in the Memorial of the Metropolitan and Provincial Law Association between the Office of the Accountant-General and the Office of the Accountant in Bankruptcy.

OFFICE OF THE ACCOUNTANT IN BANKRUPTCY.

A GENERAL summary of the duties of this office will be found in the Minutes of Evidence given by the Accountant in Bankruptcy and his Chief Clerk, as contained in the Report of the Bankruptcy Law Commissioners of 1853 (pp. 144 to 148), since which period no change whatever has been made in the office, either with regard to the number of clerks employed or in its administration.

The following statement will explain more fully some of the points of practice to which the attention of the Accountant in Bankruptcy has been directed.

The office of the Accountant in Bankruptcy was created in the year 1835 by the 5th & 6th Will. 4. cap. 29.

The number of clerks originally appointed under the above Act was five, the jurisdiction of the Court not then extending more than 20 miles round London.

By the 5th & 6th Vict. cap. 122. its jurisdiction was extended to all England by the establishment of district courts, and, as a consequence, the operations of this office were commensurately enlarged, and the staff of clerks increased from 5 to 17, which is the present number.

The qualification required for the office of Accountant in Bankruptcy is, that he be a person experienced in and conversant with the mode of keeping accounts. *Vide* 5 & 6 Will. 4. cap. 29. sect. 3. His salary is 1,500*l.*, and his retiring pension is not to exceed two-thirds of his salary, to which he is entitled when disabled "by any permanent infirmity." The Accountant appoints the stock broker, who is remunerated by retaining two-fifths of the commission on all purchases and sales of stock, and the whole of commission on exchequer bills, which amounted together in 1860 to 175*l.* 13*s.* 7*d.*; the remaining three-fifths of such commission amounting in 1860 to 226*l.* 7*s.* 5*d.* is paid by the broker at the end of the year to the Chief Registrar's Account.

The clerks to the Accountant in Bankruptcy are appointed by the Lord Chancellor, and their salaries are as follow, viz. :—

Chief clerk -	-	-	800 <i>l.</i> per annum.
Three heads of departments,	400 <i>l.</i> per annum each.		
One corresponding clerk -	-	-	320 <i>l.</i> per annum.
Four clerks -	-	-	300 <i>l.</i> per annum each.
Three do. -	-	-	250 <i>l.</i> " "
Two do. -	-	-	200 <i>l.</i> " "
Three do. -	-	-	150 <i>l.</i> " "

but no retiring pensions are provided for the clerks under the existing Bankrupt Acts.

The office is closed on the following days only, viz., Good Friday, Easter Monday, Easter Tuesday, and Christmas Day, and the vacations amount to 59 days; but during this interval the office is open from 11 to 1 o'clock, when a requisite number of clerks are in attendance to discharge the current work. The Accountant's vacation is conditional that he discharges during that time all matters of urgency, and that all warrants that are sent in are examined and returned to the official assignees, that they may be discharged at the end of the vacation. The hours of attendance at the office are from 10 till 4 o'clock, except on Saturdays, when the hours are from 10 till 2 o'clock.

The following documents are signed by the Accountant, viz. :—

1. All cheques for payment out under the orders of the Lord Chancellor and the Courts.
2. List of all cancelled warrants.
3. Some dividend warrants, but certificate of payments in are signed by the chief clerk.

The number of such documents signed by the Accountant in 1860 amounted to between 3,000 and 4,000.

The Accountant in Bankruptcy keeps four Accounts with the Bank of England, namely :—

1. The General Account.
2. The Bankruptcy Fund Account.
3. The Chief Registrar's Account.
4. The Unclaimed Dividend Account.

1. *The General Account* consists of all monies paid in as assets under bankrupts' estates and is available primarily for the payment of dividends to creditors, and of costs connected with the administration of the estates, such as official assignees, solicitors, accountants, &c.

2. *The Bankruptcy Fund Account* (Stock).—This account, created by the 5th & 6th Will. 4. cap. 29., is composed of investments made from time to time of monies paid in to the credit of the General Account in excess of what may be required for the current payment of dividends and of the charges incidental to the working of the estates specified above. These investments are made under an order of the Lord Chancellor upon the requisition of the Accountant in Bankruptcy, and in like manner stock is sold out if at any time the cash balance on the General Account requires to be replenished. The amount of cash at present invested in this account is 1,260,207*l.* 1*s.* 9*d.*, and the stock standing on the account amounts to 1,382,765*l.* 7*s.* 6*d.*, the interest upon which is carried to the Chief Registrar's Account.

3. *The Chief Registrar's Account*.—This account is composed of both cash and stock. It is fed by the interest arising from investments of its surplus cash, by interest of stock in the Bankruptcy Fund Account and of the Unclaimed Dividend Account, and by the percentage fees, fees levied by stamps, and other fees of court. It is chargeable with all the salaries, compensations, annuities, travelling and other expenses connected with the machinery of the London and District Courts of Bankruptcy.

4. *The Unclaimed Dividend Account*.—With the exception of a small cash balance to meet the very occasional claims of creditors under old commissions, the remainder is invested in stock, the interest upon which is carried to the Chief Registrar's Account, as above stated.

PRACTICE IN THE OFFICE OF THE ACCOUNTANT IN BANKRUPTCY WITH RESPECT TO PAYMENTS IN AND OUT OF MONIES COLLECTED UNDER BANKRUPTS' ESTATES.

By the rules and orders made in pursuance of the Bankrupt Law Consolidation Act, 1849, it is required (s. 159) that the official assignee shall forthwith pay into the Bank of England all monies which may come into his hands over 100*l.* belonging to any one estate, or 1,000*l.* on the aggregate amount of monies belonging to all the estates to which he may have been appointed as official assignee.

(Note.—When the sum of money due to any one bankrupt's estate by a particular debtor shall exceed 500*l.*, such sum is to be paid into the Bank of England to the credit of the Accountant in Bankruptcy by the person or persons so indebted, without passing through the hands of the official assignee.)

The certificate of payment in (A.), when duly signed by a cashier of the Bank of England, is forthwith brought to the office of the Accountant in Bankruptcy, and a corresponding one (B.) is signed by the Accountant in Bankruptcy, and delivered to the official assignee, who produces it to the Commissioner at the audit of his accounts.

The amount represented by this voucher having been placed by the Bank of England to the credit of the Accountant in Bankruptcy, is checked off from the bank pass book and posted in the books of this office to the credit of the particular estate under which the payment in is made.

There are about 30,000 accounts opened in the books of this office, of these a comparatively small proportion are actually working accounts, but all are checked quarterly.

(Note.—*The Bank of England keeps but one general account* for all monies paid into bankrupts' estates, but in the books of the Accountant in Bankruptcy a separate account is raised for each estate. By these means a continuous check is kept upon the accounts of all the official assignees, 27 in number, in respect of monies actually paid in by them as above. A quarterly examination is also made of the balances upon all bankrupts' estates, for which purpose balance sheets are sent into this office by the official assignees. These, if found correct, after comparison with the books of the Accountant in Bankruptcy, are certified and returned to the official assignees, by whom they are submitted to the Commissioner, and subsequently are filed with the proceedings.) The cash account with the Bank of England is verified daily, and the balances agreed monthly and yearly.

A similar course is adopted in respect to payments in of fees to the Chief Registrar's Account, &c. &c.

PAYMENTS OUT.

1st. *By Orders of Court.*—Under this head are comprised payments made to official assignees for remuneration, solicitors' and accountants' costs, and other disbursements.

As a rule these orders (C.) are left in the office of the Accountant in Bankruptcy one clear day for the purpose of being examined, and the balance certified before the cheque at the foot is signed by the Accountant in Bankruptcy.

In *urgent cases*, and if specially required, the order is examined at once, and the cheque signed and delivered to the payee the same day, the latter giving a discharge by signing a book kept in the office for that purpose.

2nd. *As Dividends.*—An order for transfer from the general to the dividend account of the estate (D.) having been left at this office, the amount therein specified as required for the dividend is written off accordingly. A book of warrants, with a corresponding list of creditors, is also left for examination. These are carefully compared, and the list cast, to see that the aggregate amount to be paid agrees with the amount directed to be transferred, as above. If correct, the warrants are stamped and returned to the official assignee, who thereupon issues them to the respective creditors.

The creditor having received his warrant (E.) from the official assignee, presents it for payment at the office of the Accountant in Bankruptcy, where two clerks from the Bank of England are in daily attendance (for the purpose of paying dividends) from 11 till 3 o'clock. The warrants in the first instance are presented to a clerk in this office, whose duty it is to see that the endorsement, &c., is regular, having ascertained which, he passes it to the bank clerk, who gives the payee cash for the amount.

Warrants may be thus presented by bankers or other agents duly authorized by the creditor to receive payment. When presented by a banker, warrants, if endorsed by the payee, are paid as a matter of course. If by a private individual not being the payee, the party so presenting a warrant is required to add his own name and address in addition to the endorsement by the payee. With regard to endorsements per procuration it is in the discretion of the Accountant in Bankruptcy either to refuse or accept them, as they may appear to him to be questionable or satisfactory. There are also other and special provisions in respect to endorsements, which will be found on the back of the printed form of warrant annexed. At 3 o'clock the bank clerks, having first agreed the aggregate amount paid during the day with the entry books kept in this office, a "write off" (F.) is signed by the Accountant in Bankruptcy for the amount so paid, which is charged to the debit of his account in the day's transactions.

POWERS OF ATTORNEY.

Powers of attorney are required by the Accountant in Bankruptcy in such cases only as the payees (not being officers of the court, annuitants, or creditors under any estate) are unable to attend personally to receive their cheque. They are chiefly required to enable parties to receive dividends on stock in trust matters.

These cases are comparatively few and exceptional.

In *London* applications for costs by solicitors, accountants, and others, are almost invariably made in person, the parties so applying being required to be identified upon signing a discharge for their cheque.

With regard to the *Country*, money orders, dividend warrants, and cheques for compensation are forwarded by post by the Accountant in Bankruptcy to the official assignees, creditors, and annuitants respectively, upon their making application for the same by letter.

If the amounts are large the cheques are crossed, and, if specially requested, the letters enclosing the cheques are registered.

Payments of costs to other than official assignees are sometimes, in the discretion of the Commissioners, made by the official assignee, and charged by him in an order subsequently made for his disbursement.

In other cases orders for payment are forwarded by the payee to the Accountant in Bankruptcy direct. In these instances the Accountant in Bankruptcy is advised of the order so forwarded by the official assignee to the estate, when, if correct, the cheque is either transmitted to the payee through his banker's agent in London, or through the official assignee, but in every such case a letter in acknowledgment of its receipt is forwarded by the payee to the Accountant in Bankruptcy.

No inconvenience has ever resulted from dispensing with powers of attorney for these payments, nor has there been a single instance in which any loss has accrued through the miscarriage of documents so forwarded.

It is difficult to give any satisfactory opinion as to what proportion the staff of this office bears to that of the Accountant-General in Chancery, in relation to the nature and extent of the duties appertaining to each of these offices, without a practical acquaintance with the business transacted in the office of the Accountant-General in Chancery.

From the printed statement detailing the duties of the latter office, forwarded by the Chancery Fund Commissioners, it appears that the Accountant-General in Chancery has to deal with funds greatly exceeding in amount those which come under the control of the Accountant in Bankruptcy, yet this fact by no means supplies a criterion by which to estimate the work required to be done in their respective offices. Indeed, whilst the operations of the two offices are to a certain extent regulated by the same general principles, such, for instance, as that monies and assets belonging to estates under administration are not allowed to be received by the respective accountants, but are required to be lodged in the Bank of England to their credit, and only to be withdrawn therefrom by orders of the Court, and other general features which might be named, yet in their detail the duties of these offices are in many respects essentially dissimilar.

On the whole it would appear that the forms in use in this office are much less numerous, and the operations generally of a less complex character, than those adopted in the office of the Accountant-General in Chancery. This, however, may arise from the different nature and administration of the respective courts to which they are attached.

The following is a statement of monies received and paid by the Accountant in Bankruptcy in 10 years ending 31st Dec. 1860:—

Year.	General Account.	Chief Registrar's Account.	Unclaimed Dividend Account.	Total received.	Year.	General Account.	Chief Registrar's Account.	Unclaimed Dividend Account.	Total paid.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.	£ s. d.
1851	863,971 18 3	80,206 8 3	24 18 4	944,203 4 10	1851	807,427 16 10	94,702 11 7	199 14 11	902,220 3 4
1852	710,155 5 0	83,614 12 9	—	793,769 17 9	1852	799,432 15 3	93,990 16 8	115 3 1	893,538 15 0
1853	743,920 13 7	87,267 8 10	1,247 10 2	832,435 13 7	1853	735,392 1 1	90,641 2 0	—	823,933 3 1
1854	772,083 10 1	94,169 4 8	751 18 0	867,004 12 9	1854	752,191 11 11	88,342 17 0	—	840,534 8 11
1855	987,549 2 4	95,480 9 3	2,110 6 5	1,085,139 18 0	1855	909,735 8 8	92,132 15 4	4,220 0 0	1,006,088 4 0
1856	1,158,907 0 0	93,070 12 3	2,069 8 1	1,254,947 0 4	1856	1,113,859 12 5	94,046 9 1	1,570 2 1	1,209,476 3 7
1857	1,405,126 3 0	100,752 6 5	1,154 1 9	1,507,032 11 2	1857	1,430,532 7 11	101,255 14 11	1,418 15 4	1,533,206 18 2
1858	1,479,904 12 2	114,338 8 9	1,509 14 10	1,595,752 15 9	1858	1,569,843 3 6	114,106 13 2	1,600 0 0	1,685,549 16 8
1859	1,060,760 0 8	92,206 3 11	555 18 0	1,153,522 2 7	1859	988,634 4 7	97,459 16 9	24 16 10	1,086,168 18 2
1860	947,967 1 9	90,322 5 5	604 17 8	1,038,894 4 10	1860	944,064 15 11	81,050 5 6	1,100 0 0	1,026,215 1 5
	10,080,945 6 10	832,328 0 6	10,028 19 3	11,023,302 6 7		10,049,163 18 1	947,719 2 0	10,248 12 3	11,007,131 12 4
Annual average	1,068,094 10 8	93,232 16 0	1,002 17 11	1,102,330 4 7	Annual average	1,004,016 7 0	94,771 18 2	1,024 17 2	1,100,713 3 2

12th June 1861.

RICHARD CLARKE,
The Accountant in Bankruptcy.

A.

CERTIFICATE OF PAYMENT INTO BANK BY OFFICIAL ASSIGNEE.
Bankrupts' Estates.

I do hereby certify, that Edward Watkin Edwards, Official Assignee of the estate of bankrupt, has this day paid into the Bank of England the sum of £
to be placed to the credit of Richard Clarke, Esq., as the Accountant in Bankruptcy.

For the Governor and Company of the Bank of England.
Entered Cashier.
N.B.—This certificate to be sent forthwith to Accountant in Bankruptcy by the Official Assignee upon payment being made into bank.

B.

L. No. 8.
CERTIFICATE OF ACCOUNTANT IN BANKRUPTCY OF PAYMENT OF CASH INTO BANK BY OFFICIAL ASSIGNEE.
Bankrupts' Estates.

I do hereby certify, that Mr. Official Assignee of the estate of bankrupt, has paid into the Bank of England the sum of which money is placed to the credit of my account as Accountant in Bankruptcy in the books kept at the Bank of England, and to the credit of the said estate of the said bankrupt in the books kept in this office for bankrupts' estates.

Accountant.
Entered

C.
BANK.

In the Court of Bankruptcy.
Basinghall Street, London,
day of 18
Before Mr. Commissioner Holroyd.
In the matter of

It appearing to me, by the annexed certificate, that the sum of £ stands
I certify that by my books the sum of £ stands to the credit of the above estate, I hereby certify, that the sum of £ is required for the Official Assignee's disbursements due to him on the balance of the Audit Account of

Official Assignee. I therefore order the said sum to be paid to Edward Watkin Edwards, Official Assignee, out of the monies standing to the credit of the Accountant in Bankruptcy in the books of the Bank of England.
Commissioner.
Registrar.

Estate of

Pursuant to the above order, pay to the said Edward Watkin Edwards, the said sum of £
to be charged to the debit of my account as Accountant in Bankruptcy.

Accountant.
£
To the Cashiers of the Bank of England.

D.

[Order of transfer to Dividend.]

THE BANKRUPT LAW CONSOLIDATION ACT, 1849.
In the Court of Bankruptcy.

Basinghall Street, London,
day of 18
Before Mr. Commissioner Holroyd.

In the matter of

By the annexed certificate it appears
I certify that by my books the sum of £ stands to the credit of the above estate;

stands to the credit of the above estate in the books of the Accountant in Bankruptcy.
and by an Order made in this Bankruptcy on the day of a Dividend amounting to £ was ordered to be paid to the Creditors; I therefore order the sum of £

Official Assignee.

to be carried to the "Dividend Account" of the above estate.

Commissioner.
Registrar.

£ Carried over Day of 18

E.

No.
Folio

LONDON DIVIDEND WARRANT.

No. of Warrant

Estate of

Dividend of

in the £

on £

Creditor

£

Received this day of 18

of E. W. Edwards, Official Assignee, a Warrant on the Accountant in Bankruptcy for £, being the amount of the above Dividend.

£ London, day of 18

Estate of Under dated Dividend of in the £. Declared day of 1859.

entitled to be paid the sum of Pounds . . . Shillings and Pence.

To the Accountant in Bankruptcy, Court of Bankruptcy, 12, Basinghall Street.
Official Assignee.

Let this be paid to or Bearer, from my account as Accountant in Bankruptcy.

Accountant.
To the Cashiers of the Bank of England.

N.B.—This, upon being endorsed by the payee, will be paid any day between the hours of eleven and three, except on Saturdays, when they will be paid till two o'clock, at the office of the Accountant in Bankruptcy, at the Court of Bankruptcy Basinghall Street.

Observe rules at the back as to endorsement.

(On the back.)

RULES AS TO ENDORSEMENT OF WARRANT.

That the endorsement by an executor or administrator or any creditor be sufficient.

That if any other person than the creditor, or person duly authorized by the creditor to receive the dividend, the person so obtaining the same must obtain an order for payment thereof upon the warrant, by a Commissioner, under his hand; and if any dividend warrant be above twelve months' date a like order for payment thereof by a Commissioner shall be required: Provided always, that in no case shall any such dividend be paid to an official assignee, unless such official assignee be the payee, or the administrator or executor of the payee, or the assignee of any bankrupt payee.

F.

Office of the Accountant in Bankruptcy day

To the Cashiers of the Bank of England.

Write off from my account, as Accountant in Bankruptcy, the sum of being the aggregate amount of Dividend Warrants paid by the Bank of England at my office this day.
Accountant.

£
Entered.

No. VII.

PAPER prepared by MR. P. W. ROGERS, with the Assistance of MR. FIELD, for the Use of the CHANCERY FUNDS COMMISSIONERS, containing Provisions extracted from the Slave Compensation Acts, with the view of elucidating the accompanying Documents which show the Method of Proceeding as to Compensation Funds the subject of Litigated Claims.

By the Act of 3 & 4 Will. 4. c. 73., intituled "An Act for the Abolition of Slavery throughout the British Colonies, for promoting the Industry of the manumitted Slaves, and for compensating the Persons hitherto entitled to the Services of such Slaves," the Lords of the Treasury were empowered to raise a sum of twenty million pounds sterling, and the money so raised was to be paid into the Bank of England, to the account of the Commissioners for the reduction of the National Debt, under the title of "The West India Compensation Account;" and certain Commissioners of Arbitration were thereby appointed to divide and apportion the said money among the owners of the slaves to be manumitted under the provisions of the said Act.

By the subsequent Act of 5 & 6 Will. 4. c. 45. s. 14, after reciting that certain claims for compensation under the provisions of the first Act may be subject to litigation before the Commissioners of Arbitration appointed thereunder, and also in the Courts of the several Colonies, and the final settlement of such claims may therefore be postponed to a distant period: And that it is expedient to authorize the Commissioners for the reduction of the National Debt to transfer the said Compensation Funds so under litigation; it was enacted, that in all such cases it shall be lawful for the Lords Commissioners of His Majesty's Treasury to direct the Commissioners for the reduction of the National Debt to pay over from time to time, if the Lords of the Treasury shall deem it expedient so to do, into the Bank of England in the name of the Accountant-General of the Court of Chancery or the Accountant-General of the Court of Exchequer, in trust for the purposes herein-after mentioned, all such sums of money as shall from time to time be certified by the said Commissioners of Arbitration to be the subject of any claim before the said Commissioners against which any counter claim shall have been filed, without any special order for that purpose, or other authority than this Act, and *whether such Courts of Chancery or Exchequer respectively shall be sitting or not*, and such sums shall be carried to new accounts in the books of the said Bank of England under the title of "The litigated West India Compensation Account of the Court of Chancery," or "The litigated West India Compensation Account of the Court of Exchequer," as the case may be; and such Monies, when so paid in, shall be placed [*qy., by the Accountant-General*] to the account of the number of the claim as stated and specified in the said certificate of the said Commissioners; and such monies and the half-yearly dividends arising from the investments thereof, and also the dividends on all future investments, as they arise and become due, shall be invested from time to time by the said Accountants-General in their names respectively, under the authority of this Act, in Three per Cent. Consolidated Bank Annuities, to the said respective accounts; and the said Bank Annuities purchased with the said compensation monies so invested as aforesaid, and the said accumulations shall be paid and transferred to the person or persons to whom the same shall be directed to be paid or transferred by any adjudication or award of the said Commissioners of Arbitration duly certified according to the provisions of the said recited Act: Provided always, that any adjudication or award of the said Commissioners of Arbitration duly certified according to the provisions of the said Act, shall be valid and effectual for the purpose of authorizing the demand *upon and payment by the Accountants-General* respectively of the said Courts of Chancery and Exchequer of the sums included in such adjudications or awards respectively. And by the section 16 of the same Act, the Accountant-General was authorized to *appoint a deputy, whose acts should be valid*.

By a subsequent Act of 6 Will. 4. c. 5. s. 2, it was enacted, that it shall be lawful for the said Accountant-General of the Court of Chancery and for the said Accountant-General of the Court of Exchequer, in all cases where any such award shall be made directing the payment of any sum or sums of money to be raised by sale of all or any part of the said Bank Annuities, to sell the said Bank Annuities so standing in their names respectively in the books of the Bank of England, *and appertaining to the account of the particular number of the claim to which the said award shall apply*, with or without the accumulations thereon, as the case may be, or such portion or portions thereof as it

may be necessary or proper to sell for the purpose of raising the sum or sums of money so awarded, and to pay the net proceeds arising from such sale to the party or parties authorized to receive the same; and in cases where such award shall be made for the transfer of stock, it shall be lawful for the said Accountants-General respectively to transfer the said Bank Annuities standing [*qy. in his own books*] to the account of the particular number of the claim to which such award may apply, or any portion or portions thereof, with or without the accumulations thereon, as the case may be, to the party or parties legally entitled to the same, in satisfaction of any such award so made for the transfer of stock as aforesaid; and in case any award shall direct and require the transfer of such amount of the said Bank Annuities as may be equivalent to any sum or sums of money specified in such award, the amount of the said Bank Annuities so to be transferred *as equivalent to and in satisfaction of any such sum or sums of money shall be calculated and ascertained by the said Accountant-General respectively, according to the average price of the said Bank Annuities on the day on which the said award shall bear date*.

By section 5 of the same Act, powers of attorney already given to receive payment in money from Commissioners of National Debt were to be equally valid to receive payment in money or stock from the Accountants-General in Chancery and Exchequer, as well as the said Commissioners; and such Accountants-General were authorized to pay money or transfer stock to the persons mentioned in such powers of attorney; but letters of attorney for the receipt of compensation under 20*l.* were exempted from stamp duty, and persons were indemnified for acting upon such letters of attorney unstamped.

It was also provided by the 9th section of the same Act, that the Accountant-General of the Court of Chancery shall not be held or taken to be responsible for or liable to make good any payment of money or transfer of Bank Annuities already made in accordance with that Act, or which should hereafter be made under the provisions thereof, unless the same should have been occasioned by the wilful negligence or default of the said Accountant-General.

The amount carried under the provisions of these Acts into the name of the Accountant-General of the Court of Chancery was 4,924,892*l.* 17*s.* 7*d.*, and such amount was then subdivided in his own books and placed to the account of upwards of 4,000 separately numbered claims; but the whole fund remained on a single account in the books of the Bank of England. And no trust thereof in favour of any particular account was declared by the Accountant-General, as has to be done by him in the case of stock belonging to suitors of the Court of Chancery, and the whole fund was at his personal disposal, or as it is conceived of that of his deputy.

The Accountant-General exercised the power conferred by these Acts, and appointed a deputy. The person appointed was Mr. Neale, one of the then clerks of the then Accountant-General, who has since died. Mr. Neale was a gentleman of great talent, and well aware of the difficulties attaching to the Chancery method of dealing with the funds of the suitors; and it is understood that the system adopted with respect to the mode of operating on these accounts was framed by this officer. The system was generally commended; but it is not known that any document is now in existence that can be referred to explanatory thereof. The Acts before stated, and the documents appended hereto, give some insight into the system, and the following parallel statements show the difference in the mode of operating on the funds of the Suitors of the Court of Chancery and on the Slave Compensation Funds:—

Funds of the Suitors.

1. A separate set of accounts of each suitor's cash and stock kept in the Chancery office at the Bank.
2. Original order left by solicitor with Accountant-General, and subsequently returned to solicitor.

Slave Compensation Funds.

1. No separate set of accounts, but the stock and cash kept at the Bank on the sole account of the Accountant-General.
2. Original award transmitted by Commissioners to Accountant-General, and retained by him.

3. Equivalents and accumulations ascertained by Registrar, and stated in order, and verified by affidavit when required by him.
4. Calculations, apportionments, and computations, either made by solicitor and verified by affidavit, or by Chief Clerk of Judge, and certified.
5. Cash paid to person named in order by a certificate to the Bank of England that the person named therein is to be paid, and countersignature of Registrar to such certificate required; and this certificate exchanged at Bank Chancery Office for a ticket authorizing the payment.
6. No provision for executing duties of Accountant-General by deputy.
7. Powers of attorney for receipt of sums under 20*l*. liable to stamp duty of 5*s*.
8. Powers of attorney not recognized unless made out in the office and limited to the particular amount of cash specified in the order.
9. Accountant-General is considered not to be under any personal responsibility.
3. Orders upon equivalents, residues, and accumulations, without specifying amounts, and equivalent amount of stock, according to price of the day, certified to Accountant-General by his broker.
4. Calculations, apportionments, and computations made by Accountant-General.
5. Cash paid to person named in award by cheque on Accountant-General on Bank of England, payable to such person or bearer, and no countersignature of Registrar to such cheque required.
6. Power to Accountant-General to act by deputy.
7. Powers of attorney for receipt of sums under 20*l*. exempt from stamp duty.
8. Powers of attorney prepared by the party entitled and permitted to be applicable to any future monies that might be awarded.
9. Accountant-General responsible for wilful neglect or default.

The following DOCUMENTS have been selected from the Proceedings of the SLAVE COMPENSATION COMMISSIONERS deposited at the Record Office at the Rolls. Those from A 1 to A 5 relate to Stock, and those from B 1 to B 4 relate to Cash.

A 1.

No. 3873.

CAPE OF GOOD HOPE.

Adjudication and Award for Transfer of Stock.

Office of Commissioners of Compensation.
25th June 1838.

To the Accountant General of the Court of Chancery.

WHEREAS the sum of money set opposite to the claim as numbered in the list hereunto subjoined, payable as compensation monies in respect of the slaves in the said claim mentioned, together with the interest thereon, has been invested according to the provisions of the Act 5th and 6th Wm. 4th, cap. 45, in reduced £3 10*s*. per centum per annum annuities, and such annuities have been transferred under the Act 6th William 4. c. 5, into the name of the said Accountant-General, to abide the final settlement of such claim.

Now we the undersigned Commissioners of Compensation, do hereby adjudicate and award that widow Hendrik Willem Lategan is entitled to receive the sum of £129*4s*. 6*d*.,* being part of the compensation money in respect of the slaves in the said claim mentioned, together with the interest and accumulations thereon, and that Johan David Piton is entitled to receive the sum of £101 15*s*., other part thereof, and that Jacobus Johannes Van den Berg is entitled to receive the sum of £151 15*s*. 1*d*., other part thereof, together with the interest and accumulations thereon, and that H. Cloete Laurens, son, J. G. Blanckenberg Hendriks, son, J. H. Lesar, and W. Udemans, are entitled to receive the sum of £270 11*s*., other part thereof, and that widow Jan Fredrik Schickerling is entitled to receive the sum of £116 17*s*. 2*d*., other part thereof, and that Hendrik Heckroodt is entitled to receive the sum of £156 14*s*. 5*d*., being the residue thereof, together with the interest and accumulations on the sum of £645 17*s*. 7*d*., being the residue of the interest and accumulations on the whole compensation money, and that the said Accountant-General do transfer such portions of the said annuities so standing in his name on account of the said claim, and such other like annuities as may have been purchased, with the interest and accumulations thereon, as shall be equivalent to the

said sum of £129 4*s*. 6*d*. together with the interest and accumulations thereon, to the said widow Hendrik Willem Lategan, and the said sum of £101 15*s*. to the said Johan David Piton, and the said sum of £151 15*s*. 1*d*., together with the interest and accumulations thereon, to the said Jacobus Johannes Van den Berg, and the said sum of £270 11*s*. to the said H. Cloete Laurens, son, J. G. Blanckenberg Hendriks, son, J. H. Lesar, and W. Udemans, and the said sum of £116 17*s*. 2*d*. to the said widow Jan Fredrik Schickerling, and the said sum of £156 14*s*. 5*d*., the residue, together with the interest and accumulations on the said sum of £645 17*s*. 7*d*., being the residue of the interest and accumulations on the whole compensation money to the said Hendrik Heckroodt, in discharge and satisfaction of the compensation monies in respect of the slaves in the said claim mentioned.

JAMES LEWIS.
HASTINGS ELWIN.
HENRY FREDERICK STEPHENSON.

[Accountant-General's Memoranda of Calculations.]

Propⁿ of— £ s. d.
Present fund 267 4 2 £3 10 per cent. Red.
Annuities. S.C.A.
Transfd. 20th July 1838. W.G.A.
Forwd. 548
Posted 239
Wn. off 151
For stampd. power for Clote, &c. &c. in 3427.

List to which the foregoing Award refers.

CAPE OF GOOD HOPE.

Number of Claim.	Name.	Designation.	Sum.
6359	Hk. Heckroodt, sr.		£ s. d. 926 17 2
Exd. T. Sheppard		JAMES LEWIS. HASTINGS ELWIN. HENRY FREDERICK STEPHENSON.	

[Accountant-General's Notes of Calculations.]

£ s. d. 926 17 2	£ s. d. 1,032 2 2	£ s. d. 189 4 6	£ s. d. 143 18 0
		161 15 1	168 19 8
		645 17 7	719 4 6
		926 17 2	1,032 2 2
£ s. d. 101 15 0	£ s. d. 100 9 10		
270 11 0	267 4 2		
116 17 2	115 8 3		
156 14 5	236 2 3		
645 17 7	719 4 6		

A 2.

Compensation No. 6359.

N.D.O. No. 3695.

Power of Attorney.

COLONY OF THE CAPE OF GOOD HOPE.

Power of Attorney.—West India Compensation,
3 & 4 Will. 4. c. 73.

Know all men by these presents, that I, Jacobus Johannes Van den Berg, of Cape Town, as counter claimant of slaves returned in the name of Hendrick Heckwoodt, senior, of Greenpoint, Cape Town, do make, constitute, and appoint Roelof Abraham Zeederberg, junior, Robert Eagar, and Johannes Adriaan le Sueur, all of Cape Town, Gentlemen, jointly, or any of them separately, my true and lawful attorneys or attorney for me, in my name and on my behalf to receive payment from the Commissioners for the reduction of the National Debt, out of the monies standing upon their account in the books of the Bank of England under the title of the "West India Compensation Account," of any sum or sums of money which may be awarded to me from time to time under the provisions of the Act 3rd and 4th William 4th, c. 73, intituled "An Act for the abolition of Slavery throughout the British Colonies, for promoting the Industry of the manumitted Slaves, and for compensating the Persons hitherto entitled to the Services of such Slaves;" and also to give receipts for all or any such sum or sums of money, and to do all

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* In the original of this and the Award B 1, the amounts are inserted in words at length.

lawful acts requisite for effecting the premises, hereby ratifying and confirming all that my said attorneys or attorney shall do therein by virtue hereof; and in case of my death, this letter of attorney, as to all matters and things which after my decease shall be done by my said attorneys or attorney by virtue of, or under color or in pursuance thereof, shall so far as the Commissioners for the reduction of the National Debt are interested or concerned, be as binding upon my executors and administrators as the same would have been upon me if living, unless notice in writing of my death shall have been previously given to the said Commissioners by my executors or administrators, or by some person or persons interested in the property to which this letter of attorney refers; and unless such notice be given, I hereby covenant, promise, and engage and bind my respective executors and administrators to and with the said Commissioners for the reduction of the National Debt, that they, my said executors and administrators, shall and do allow, ratify, and confirm as good, valid, and effectual, against them and against my estate, whatsoever shall or may be done by my said attorneys or attorney after my decease, so far as the said Commissioners for the reduction of the National Debt shall or may be in any way or manner interested therein.

In witness whereof I have hereunto set my hand and seal, the Twenty-fifth day of April, in the year of our Lord One thousand eight hundred and thirty-seven.

J. J. VAN DEN BERG. (L.S.)

Signed, sealed, and delivered in the presence of us,
GEO. HORNE, of Cape Town, Gent.
C. E. WENTZEL, jr. of Cape Town, Gent.

Attested by me,
J. H. SANDENBERGH,

After signature state design—Assist. Commissioner
nation, as below directed, of Compensation.

N.B.—“If executed out of Great Britain to be attested by the Governor or Lieutenant-Governor of either of the British colonies, or by a Special Justice in the colonies, or by one of the Assistant Commissioners (which designation must be distinctly stated), or by His Majesty’s Consul or Vice-Consul or Notary Public, in addition to the usual witnesses.”

“And if executed by a mark instead of a written name, the witness must insert in the attestation that the power has been read and fully explained to the party.”

You are desired to attend to the instructions for executing letters of attorney which are on the other side.

INSTRUCTIONS for executing LETTERS of ATTORNEY, which must be strictly observed.

The date to be inserted at the time of execution in words at length, and not in figures.

The execution must be attested by two credible witnesses, and their place of abode and quality must be written against their names.

When powers of attorney are executed by more than one person, the subscribing witnesses must insert in the attestation the name of the party or parties whose execution they attest, and the words “signed, sealed, and delivered in the presence of us, by” must be repeated in each attestation.

Every letter of attorney that is executed in Great Britain by a mark instead of a written name must be witnessed by the minister of the parish and one of the churchwardens, or by two churchwardens, and the witnesses must insert in the attestation that the power has been read and fully explained to the party.

If any alteration, interlineation, or erasure be made in a letter of attorney, it must be particularly stated in the

attestation subscribed by the witnesses, and that it was done previous to execution.

Note.—The following is to be filled up and executed by the attorney at the National Debt Office in London.

I demand to act by this letter of attorney this
day of 18 .

Witness,

A 3.

Demand of Attorney to act.

I Robert Eagar, the person named in the power of attorney, entitled Cape of Good Hope, No. 6359, and hereunto annexed, do hereby demand to act thereby: And I the said Robert Eagar do solemnly and sincerely declare that I do believe the said power of attorney is a true and genuine instrument, and I do declare that* I do believe the name of De Wed. J. F. Schickerling, signed to the said power, and purporting to be the signature of the person granting the same, is the handwriting of the said De Wed. J. F. Schickerling; and that I do believe that the names of A. Faure, junr., and Geo. Horne, signed as witnesses to the execution of the said power by the said De Wed. J. F. Schickerling, are in the handwriting of the said A. Faure and George Horne respectively, and that the name of J. H. Redelingherys, subscribed as the officer attesting the execution of the said power, is the handwriting of the said J. H. Redelingherys, and that the said J. H. Redelingherys was at the time of his so attesting the same notary public, and authorized to attest the same. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled “An Act to repeal an Act of the present Session of Parliament, intituled ‘An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits,’ and to make other Provisions for the Abolition of unnecessary Oaths.”

ROBT. EAGAR.

Declared this 16th day of July 1838, at the
Accountant-General’s Office, before me,

JOHN NEAL,

Deputy for William Geo. Adam, Esq.,
Accountant-General.

A 4.

Broker’s Certificate of Value of Stock.

3908.

London, 17th day of July 1838.

I do hereby certify, that the sum of £115 8s. 3d., £3 10s. per cent. reduced bank annuities, was on the 25th day of June 1838 equivalent to the sum of £116 17s. 2d., the average price of that day being £1014 per cent.

Examined.

E. MORTIMER,
Broker.

London, 17th day of July 1838.

I do hereby certify, that the sum of £267 4s. 2d., £3 10s. per cent., reduced bank annuities, was on the 25th day of June 1838 equivalent to the sum of £270 11s. 0d., the average price of that day being £1014 per cent.

Examined.

E. MORTIMER,
Broker.

* Or, “I do believe,” as may be.

A 5.

Transcript of Account.

DR.

CAPE OF GOOD HOPE, No. 6359. HK. HECKROODT, SR.

CR.

			Cash.	Stock.				Cash.	Stock.
			£ s. d.	£ s. d.				£ s. d.	£ s. d.
1837.	C. J.				1837.	C. J.			
May 18	151 Col. 6	To Cash paid as p ^r Je	67 13 5		May 18	151 Col. 2	By £3 10s. p ^r C ^t Red ^d A ^s	67 13 5	928 0 4
Oct. 20	9	To Do.	411	17 8 10		6	By Cash N. D. O. C. 165		
						7	By £3 10s. p ^r C ^t Red ^d A ^s		68 17 6
1838.					Oct. 10	9	By Cash	17 8 10	
April 19	12	To Do.	487	17 15 1	20	10	By £3 10s. p ^r C ^t Red ^d A ^s		17 10 7
July 20	Jo. fo. 548	To £3 10s. p ^r C ^t Red ^d A ^s		267 4 2					
	551	To Do.		100 9 10	1838.				
		To Do.		168 19 8	April 5	12	By Cash	17 15 1	
		To Do.		115 8 3	19	13	By £3 10s. p ^r C ^t Red ^d A ^s	17 13 9	
		To Do.		236 2 3	Oct. 10	15	By Cash	2 10 4	
Oct. 24	Col. 15	To Cash	681	2 10 4	24	16	By £3 10s. p ^r C ^t Red ^d A ^s		2 10 0
Nov. 8	Jo. fo. 584	To £3 10s. p ^r C ^t Red ^d A ^s		146 8 0					
			£ 105 7 8	1,034 12 2				£ 105 7 8	1,034 12 2

B 1.

1958, 1959.

No. 4,357.

List to which the foregoing Award refers.

St. Lucia.

St. Lucia.

Adjudication and Award for the Sale of Stock.

Office of Commissioners of Compensation,
4th March 1839.

To the Accountant-General of the Court of Chancery.

WHEREAS the sum of money set opposite to the claim as numbered in the list hereunto subjoined, and certified by us, the undersigned Commissioners of Compensation, to be due and payable as compensation monies in respect of the slaves in the said claim mentioned, together with the interest thereon, has been invested, according to the provisions of the Act 5th and 6th William 4th, cap. 45, in the purchase of three per cent. consolidated bank annuities, in the name of the said Accountant-General to the account of the said number.

Now we, the undersigned Commissioners of Compensation, do, by and with the consent of the several parties hereunder mentioned, adjudicate and award that the said several parties are entitled to receive the sum of £159 14s. 3d., together with interest and accumulations thereon, being further part of the compensation monies in respect of the slaves in the said claim mentioned; and also the interest and accumulations on the principal sum of £544 7s. 8d., awarded by us, the said Commissioners, on the 5th February 1838, in the following proportions, that is to say, that Raphael Hyacinth Cleret, as assignee of Madame Imbert, is entitled to receive the sum £45, being part of the said sum of £159 14s. 3d. above mentioned; that Marie Catherine Desrosiers is entitled to receive the sum of £57 7s. 1d. other part of the said sum of £159 14s. 3d. above mentioned, together with one moiety of the interest and accumulations on the said sum of £159 14s. 3d., and also one moiety of the interest and accumulations on the said principal sum of £544 7s. 8d. previously awarded; and that Madame Lorrein is entitled to receive the sum of £57 7s. 2d., being the remainder of the said sum of £159 14s. 3d., together with the remaining moiety of the interest and accumulations on the said above-mentioned sum of £159 14s. 3d., and also the remaining moiety of the interest and accumulations on the said principal sum of £544 7s. 8d. previously awarded; and that the said Accountant-General do sell such portion of the said bank annuities so standing in his name to the account of the said number, as shall be equivalent to the said sum of £159 14s. 3d., together with the interest and accumulations thereon, and also the interest and accumulations on the said principal sum of £544 7s. 8d. previously awarded; and pay out of the proceeds arising from such sale to the said Raphael Hyacinth Cleret the said sum of £45, and do also pay one moiety of the residue of the proceeds arising from such sale as aforesaid unto the said Marie Catherine Desrosiers; and do also pay the remaining moiety of such residue of the proceeds arising from such sale as aforesaid unto the said Madame Lorrein, in discharge and satisfaction of such portions of the compensation in respect of the slaves in the said claim mentioned.

JAMES LEWIS.
HASTINGS ELWIN.
THOMAS AMYOT.

[Accountant-General's Memoranda of Calculations.]

311 4 1
479 7 2
31 16 11

Prop ⁿ of—	£	s.	d.	
Present fund	48	11	8	
	76	15	5	
	38	12	4	£3 per cent. consols.
	76	15	5	
	38	12	4	

Sold 27th March 1839.
W.G.A.

Journ^s { 617
618
Posted 257
Wⁿ off 33

Vide 3301.

No. of Claim.	Name.	Designation.	Sum.
683	Joseph Lorrein		£ 722 5 3
Ex ^d J. K. G. K.		JAMES LEWIS. HASTINGS ELWIN. THOMAS AMYOT.	

B 2.

Number of Award 4357.

COLONY SAINT LUCIA. Parish____, Claim Number 683.

26th day of March 1839.

Sold for William George Adam, Esq., Accountant-General of the Court of Chancery, "The Litigated West India Compensation Account of the Court of Chancery, per Act 5 and 6 William IV., cap. 45."

For Wednesday the 27th.

	£	s.	d.
£38 12s. 4d. £3 per Cent. Consolidated Bank			
Annuities, to J. R. Soden, at 92½ per cent.	- 35	16	4
Brokerage	- 0	1	0
C. MORTIMER, Broker.	£35	15	4

Examined, C. F.

Litigated West India Compensation Office,
27th day of March 1839.

To the Governor and Company of the Bank of England.

I request that the money raised by sale as above, may be placed to account of William George Adam, Esq., Accountant-General of the Court of Chancery, "The Litigated West India Compensation Account of the Court of Chancery. Money by sale of Stock, per Act 6 William IV., cap. 5."

For W. G. Adam, Esq., Accountant-General,
JOHN NEALE.

Bank of England, 27th day of March 1839.

I do hereby certify, that the sum of Thirty-five pounds fifteen shillings and four-pence (being the amount raised by sale as above), has this day been paid into the Bank of England, to the account of William George Adam, Esq., Accountant-General of the Court of Chancery, "The Litigated West India Compensation Account of the Court of Chancery. Money by sale of Stock, per Act 6 William IV., cap. 5."

For the Governor and Company of the Bank of England,
C. E. WALLER.

£35 15. 4.

Entered, W. Ormes.

Litigated West India Compensation Office,
8th day of April 1839.

Received of William George Adam, Esq., Accountant-General of the Court of Chancery, a cheque for the above-mentioned sum, drawn on the Governor and Company of the Bank of England, dated this day, and numbered 9134 G., in satisfaction* of the claim above described.

GEORGE HYDE.

Witness, J. Neale.

* Sic in original.

B 3.

COLONY SAINT LUCIA. Parish —, Claim Number 647,
and 648.

To the Accountant-General of the Court of Chancery.

SIR,

By a Power of Attorney, entitled and numbered as above, I am authorized to receive any sum or sums of money awarded to Raphael Hyacinthe Cleret by the Commissioners for West India Compensation.

Under this Power (which is lodged at the National Debt Office) I now apply to receive the amount awarded to Raphael Hyacinthe Cleret, Claim Number 683.

THOMAS DU BUISSON.

15th day of April 1839.

Litigated West India Compensation Office.
To the Comptroller of the National Debt Office,

SIR,

I have to request that you will allow the Power of Attorney above described, to be transmitted to this Office for inspection.

CHA. FOOT.

16th day of April 1839.

Litigated West India Compensation Office,
19th day of April 1839.

I hereby acknowledge to have received from the Comptroller of the National Debt Office, the Power of Attorney above described.

For William George Adam, Esq., Accountant-General,
CHA. FOOT.

National Debt Office, 27th day of June 1839.

I hereby acknowledge to have received back from William George Adam, Esq., Accountant-General of the Court of Chancery, the Power of Attorney above described.
R. FENN.

B 4.

No. 9134 G.

G. Hyde.

M. C. Desrosiers.

£35 15. 4.

10/4.

No. 9134 G.

Award 4357. Ledger folio 257.

To the CASHIERS of the BANK OF ENGLAND.

George Hyde.

Pay to Marie Catheline Desrosiers, or bearer, Thirty-five pounds fifteen shillings and four-pence, on account of the Litigated West India Compensation Account of the Court of Chancery. Money by Sale of Stock. Per Act 6 William 4. cap. 5.

£35 15. 4.

London, the 8th April 1859.

Colony Saint Lucia. Parish —. Claim 683.

B. B.

W. G. ADAM, A. G.

No. VIII.

CIRCULAR of 3rd May 1861, containing QUERIES issued by the CHANCERY FUNDS COMMISSIONERS.

3, New Square, Lincoln's Inn, W.C.,
May 1861.

SIR,

I AM directed by the Commissioners appointed "to inquire into the constitution of the Accountant-General's department of the Court of Chancery, the forms of business in use therein, and the provisions for the custody and management of the stocks and funds of the Court, and to suggest improvements in the said matters, with especial view to the advantage of the suitors, and to the safety, convenience, economy, and despatch in the transaction of the business of the Court," to request that you will be good enough to procure, either from such individual members of your Society as may be willing to assist the Commission, or from a sub-committee of your Society, an expression of their opinion in reference to the matters of complaint alleged to exist in connexion with the Accountant-General's department, and the best modes of remedying the same.

The Commissioners direct me to suggest that it will be most convenient for them if, in replying to this communication, attention be paid to the following heads and subdivisions:—

I. Forms to be gone through before the suitor reaches the Accountant-General's office, and generally dealings between the Court and the Accountant-General.

1. As regards paying money and transferring stock into court, and the expense and delay involved therein.
2. As regards the present form of orders, and in what way they might be simplified.
3. Whether it would be desirable that the orders, or office copies thereof, should be transmitted from the Registrar's office to that of the Accountant-General, and filed there.

II. Dealings between the suitor and the Accountant-General's department.

1. As regards the expense involved in powers of attorney, and in affidavits of calculation and

certificates of apportionment, and in what cases they might be safely dispensed with.

2. As regards the complication and multiplicity of forms in use in the Accountant-General's department, and in what manner they might be advantageously simplified.
 3. As regards office hours and vacations.
 4. Whether the present staff of the Accountant-General's office, and the subdivisions therein, are sufficient.
 5. Whether any inconvenience is caused from the circumstance that a voucher for the payment in of money is not obtainable immediately after the money is paid in.
- III. Proceedings of the suitor after leaving the Accountant-General's department.
1. As regards the counter-signature of the Registrar.
 2. As regards the distance the suitor has to go for his money.
- IV. Dealings between the Accountant-General and the Bank of England.
1. As regards the present system of buying and selling stock.
 2. As regards the necessity for keeping a duplicate set of accounts at the Bank.

The Commissioners will also be glad to receive suggestions upon any other points coming within the scope of their inquiry which may not appear to fall under the above heads.

I am directed to transmit, for the use of the gentlemen who may be good enough to favour the Commissioners with the expression of their opinion, copies of statements furnished by the Accountant-General, Mr. P. W. Rogers, and the Bank of England, in order to show what information the Commissioners are already in possession of.

I have the honour to be,

Your obedient servant,

E. MACNAGHTEN,

Secretary to the Chancery Funds Commission.

No. IX.

OBSERVATIONS, on the part of the Accountant-General, on the points comprised in the Queries contained in the Circular of the 3rd May 1861, issued by the Chancery Funds Commissioners.

I.

1. There is no expense connected with paying money or transferring stock into Court, so far as regards the Accountant-General's office. Whether the orders for these transactions could be obtained at a less cost, or in less time than at present, is a question for the Court and the Registrar. As to the time occupied at the Accountant-General's office, in preparing the directions to pay in money, or the tickets to transfer stock, one clear day between the day of bespeaking them and the day on which they are ready is all that is required.

2. No great change in the present form of orders seems to be expedient. There could be no greater evil than that in aiming at conciseness, by compression of the terms of direction, the discretion of the Accountant-General and his clerks should become more vague and arbitrary than it now is. All long recitals have of late years been gradually discontinued, and although both a saving of cost to the suitor, and of time in perusing the orders, has been achieved in some cases, it has been often at the expense of clearness and intelligibility; to attempt to extend this principle would be most inexpedient; the Accountant-General's clerks ought to be assisted by clear and unmistakable words of direction. There is no particular form of order requisite, so long as the amount of funds dealt with, the title of the cause, or matter, or account on which they are standing, or are to stand in the Accountant-General's books, and the person or persons to or by whom payment or transfer is to be made, are clearly defined. There is undoubtedly a difference in the orders with respect to the clearness with which the intentions of the Court are expressed, notwithstanding the experience, skill, and conscientious care of the Registrars by whom they are framed. The language is occasionally obscure, and leaves doubtful what is really meant, and sometimes the meaning of the Court, although discernible from the general frame of an order, fails to be expressed in particular clauses of it, so as to render an alteration absolutely necessary (as can be readily shown by the production of individual examples of orders); and for this purpose, under the present system, there is the fullest opportunity for the interchange of communication between the Accountant-General's office, and that of the Registrars, who are at all times ready to receive the suggestions which arise in the attempt to carry out the orders in detail. One frequent cause of amendment arises from the use of the expressions, "this cause," "this matter," "these causes," "these matters," to denote the title of the account in the Accountant-General's books on which a fund to be dealt with is standing. The title of the order has perhaps varied since the fund has been in Court, so that those general words no longer accurately describe the title of the account. It would probably save a great many alterations if the title of the fund were never described by reference to the title of the order, but by inserting the exact description in the body of the order from the Accountant-General's voluntary certificate, which is, in fact, *pro tanto* the basis of the order. The expressions "out of any other cash," and "any other bank annuities," often give rise to much uncertainty as to whether certain funds which have come into Court since the date of the order are to be disposed of under it. This might generally be remedied by adding words expressive of the source from which the "other funds" were expected to come. Another point to be noticed in connexion with the form of orders is the direction now becoming common to calculate subsequent interest on debts or legacies. The order is frequently silent as to the time up to which interest is to be taken, but if the interest is to be verified by affidavit, some time has to be stated in the order, and the usual words are "up to the time of payment;" the solicitor or his clerk, making the affidavit fixes upon some day as the day of payment, up to which to calculate the interest. When it is referred to the chief clerk to compute interest, or subsequent interest, he takes it to the date of his certificate, the same day for all. This source of doubt would be removed if a day were named in the order up to which to calculate interest, except in those cases in which it were referred to the chief clerk.

3. In many cases the orders, although complete in themselves, are not ripe for the Accountant-General to act upon when they issue from the Registrar's office. Some other proceeding has to be taken first, e.g., a sale of land, a mortgage, service of the order, inquiries by the chief clerk, taxation of costs, &c., so that a considerable interval frequently elapses between the passing of

an order and its being brought to the Accountant-General. If the order were to come direct from the Registrar without the intervention of the solicitor, it would lead to a vast number of inquiries at the Accountant-General's office for orders, of which the parties enquiring would not have even the dates, and of which the Accountant-General's books would have no record, nothing having been then done at his office in pursuance of them. Many orders relate to funds standing to the credit of accounts not appearing at all in the titles of the orders, and some to the second-mentioned or third-mentioned cause or matter. Such orders would very probably be taken into the wrong division of the office, and much uncertainty would be occasioned as to whether they had been sent away from the Registrar's office or not. At present, if an order cannot be found when inquired about, the questions generally asked of the solicitor are, When was it left? What was it left for? and by this means some trace of it is easily discovered. The rule of the office is, that an order be not taken in unless some proceeding can be bespoken under it; the particular transaction bespoken is entered by the clerk in whose department it is in his work-book, and when an inquiry is made about any order, by knowing the nature of the transaction supposed to have been bespoken, the proper book is referred to, and an answer given as to whether the order has been left or not. It would seem then better to allow the present system, of the solicitors bringing the orders to the Accountant-General's office, to continue, unless a distinct department were provided which should have the custody of all the orders for the whole office, and in which proper indexes could be kept of them as they arrive. Whether the advantages to arise from such a plan would be worth the expense of it, may be questioned; if the main object be for the Accountant-General to have in his custody the authority under which he acts, this would be effected by his retaining the order when first left with him, and referring to it upon any subsequent transaction being bespoken. Such a mode of proceeding would be analogous to that which now takes place with regard to payments in under Acts of Parliament; but an obvious difficulty in carrying it out is the necessity of taking the order to the Registrar for his countersignature to those drafts which are marked with the Accountant-General's initials in the margin of it. With respect to the safety and expediency of discontinuing that countersignature there is great doubt; it would have the effect of withdrawing from the Accountant-General and his clerks a very considerable check, as lost or abstracted drafts might for want of that security be much more easily passed at the Bank of England. But, supposing the gain in respect of time, and convenience to the public, to be held sufficient to outweigh the importance of that amount of check, there are yet considerable difficulties in the way of carrying out the change. As already has been observed, a great number of the money orders are found, when put into operation, to require variation, and probably this must necessarily be the case; at present when an order seems to want alteration it is taken to the Registrar, who, if it has not yet been worked, is not unwilling to alter it on being satisfied that he ought to do so; but, if he sees, by the margin of the copy brought to him, the record of the Accountant-General's having already acted, he will hesitate to make an alteration without communicating with the Accountant-General, as the change may invalidate or at least stultify what has already been done; but if the order is not to bear the Accountant-General's initials (the original reason for which will have ceased when the process of countersigning stops), how is the Registrar to know whether there has been any action affecting the part proposed to be altered. If a copy is to be lodged with the Accountant-General and kept by him as a *quasi* record of what he does, it will be highly inconvenient that he should from time to time be parting with it.

Again, such a change would bear most materially upon the right, which solicitors have hitherto considered themselves entitled to exercise, of the exclusive custody of their orders. It must be remembered also that in respect of this proposed change of custody the difficulty as well as exigency would not be confined to the "orders," it would extend to all copies of reports and certificates by chief clerks and taxing masters, and this consideration greatly enlarges the practical difficulties of the case, as well as the probable cost of the necessary machinery for the safe keeping and ordering of the various documents.

Such a change as that proposed might lessen the security there now is as to delivering a cheque to the right person. One copy only of an order is acted on, and it is generally

the *original* order, or at all events the copy in possession of the solicitor who has the carriage of or the working out of the order. To bespeak a draft therefore this particular copy has to be left at the Accountant-General's Office, and as solicitors do not usually bespeak drafts unless they have been instructed to do so, it becomes necessary to apply to the solicitor having the order to lend it or to leave it for that purpose. But if the orders are to be retained by the Accountant-General, it would be open to any solicitor, whether he had been connected with the case or not, to bespeak any draft which he might happen to know was payable, and he might be imposed upon by a person representing himself to be the individual to whom the draft was directed to be paid, and induced to identify him as such. Circumstances also might be within the knowledge of the solicitor having the conduct of the case, which should prevent the delivery of a draft, although ordered to be paid, to the party named to receive it, such as a mortgage upon or assignment of it, and an application to the Court might be in contemplation, or indeed actually made at the time the draft was applied for. It is not intended to convey the notion that the present system of leaving the orders in the hands of the solicitors is an effectual preventive against such attempts being made, but that the being able to bespeak drafts without the knowledge of the solicitor for the time being principally concerned in carrying out the order, would give a greater opportunity for fraud or imposition than now exists.

Another question to be considered is, how, if such a change were made, would the Registrars grant certificates of sales and transfers? At present, in practice, the copy of the order under which the Accountant-General acts contains the Registrar's memorandum of the sales or transfers which may have been bespoken under it, to prevent a second certificate being granted for the same transaction. How is this to be provided for if the order is to be retained by the Accountant-General? Either there must be frequently a second copy taken when sales or transfers are directed, which would be a great increase of expense, or the copy lodged with the Accountant-General must be taken from him to the Registrar, which would be highly inconvenient and attended with the disadvantages before spoken of as to parting with the custody of the order for necessary alterations.

The vague and imperfect information which solicitors applying about drafts frequently possess, as to the title of the cause or account out of which they are payable, would give rise to great trouble and uncertainty if the orders were retained as proposed. The title of the order is, in many cases, not the title of the account in the Accountant-General's books, and it is a matter of very common occurrence for solicitors to inquire about funds and apply for drafts out of them, standing as they suppose under the title by which they designate the estate, when upon the account not being able to be found, a reference to the order shows that the title is essentially different. This often happens in administration suits, and with railway accounts and others of the same kind, the orders dealing with which have frequently as a governing title the name of the estate, whereas in administration suits, it may either be the name of the estate or the title of the cause under which the Accountant-General has been directed to place the funds, and in the others the name of the railway company or other public body is used as the commencement of the account. In this way solicitors may be in one division of the office inquiring about funds in which their clients are interested, or seeking to procure drafts which have already been bespoken, whilst the accounts on which such funds are standing, or out of which such drafts are payable, are in another division, and it is only by referring to the order, which as they possess it, they can easily do, that the real state of the case is discovered.

Upon the whole this change and improvement (if improvement it would be) could not be effected without much consideration of all the possible bearings of so important an alteration, although it cannot be denied that the present system has its defects and inconveniences.

II.

1. Powers of Attorney.—For sums not exceeding 20*l.*, or periodical payments not exceeding 10*l.* a year, there is an uniform stamp duty of 5*s.*; for sums above those amounts the stamp is 30*s.*, except where the payment consists of interest on Government securities, in which case the stamp is 20*s.* Besides this duty there is the fee fund stamp of 3*s.* on all powers of attorney except those in lunacy matters. Now it will easily be seen that to receive a principal sum of a little more than 20*l.* the present system of stamp duties is one of great hardship; in fact, for amounts between 20*l.* and 21*l.* 5*s.* the stamp (30*s.*) is so great as to make the having to receive more than 20*l.* a positive disadvantage. If the

stamp duty were graduated upon the principle of a 5*s.* increase for every 20*l.* of money to be paid, and for every 10*l.* of annual payment, until the respective maximum amounts of 1*l.* 10*s.* and 1*l.* be attained, it would remove the cause of complaint in a great number of cases; and inasmuch as powers of attorney for the interest upon sums of Government stock not exceeding 100*l.* are, exempt from stamp duty, it might be expedient to extend the exemption to principal sums not exceeding 5*l.*: the most complete relief would be to exempt all powers from duty. It may be questioned whether the affidavit of execution is absolutely necessary. The power is executed in the presence of two witnesses, one of whom is required to be a housekeeper, and to be so described, and then one of the witnesses makes an affidavit verifying the execution of the power, and the signatures of the grantor and of himself and the other witness. The affidavit is attended with the expense of the oath and the exhibit, and frequently there is considerable trouble and expense in finding and attending before a proper person qualified to administer the oath. There is no affidavit of execution with respect to powers of attorney to be acted upon at the office, executed by persons in foreign countries. The execution takes place in the presence of some official personage, as the consul, secretary of embassy, notary, &c., and the signature and seal of such functionaries are taken as a sufficient verification. It may be remarked, too, that no affidavit of execution is required with respect to powers of attorney for the receipt of dividends, or for the sale, transfer, or acceptance of stock at the Bank of England.

Affidavits of Calculation.—It seems strange and hardly desirable to require the results of calculation to be sworn to, and experience daily shows that accuracy is not ensured thereby. Cases have occurred in which two and even three affidavits in respect of the apportionment of a fund have been rejected as inaccurate, although the inaccuracy could have been detected with very little attention. Where only simple arithmetical operations are involved, such as interest upon purchase money, residues of cash after payment of costs, &c., residues of stock after sales to be carried over or transferred out, and division of residues into various proportions, a statement of the results of the calculation signed by the solicitor himself might be accepted as sufficient. Such results of calculation would, of course, be carefully checked in the office, as the affidavits for the same purpose now are. Such statements would not be upon the file of the Court, but they might be retained and taken care of for future reference when necessary, as is done with requests for powers of attorney, and for payments in of cash under Acts of Parliament. There are, however, two classes of cases in which it is found impracticable, for want of time, to check the calculations efficiently: subsequent interest on debts and legacies, and apportionments of the fund in Court amongst creditors and legatees. It is a common occurrence for orders to direct such interest and apportionments to be verified by affidavit, but it may be doubted whether calculations of that description ought not to be made by an accountant. They are of a troublesome description, and frequently involve a great number of different amounts, and although of course they are added up to see that the total is correct, there is in general no security that the particular items are right, and in cases of apportionment, although the whole fund may be disposed of, there may be a balance of errors; one amount being too little and another too much, or the computer, to save himself trouble, may have increased or diminished a particular item so as to make the total agree with the amount to be apportioned.

2. There is no complication or multiplicity of forms in use as between the suitor and the Accountant-General's department. Of the seven operations of the office described in the Accountant-General's statement, it is only in two that any request is required from the solicitor, viz., payments in of cash under Acts of Parliament, and investments in the purchase of stock. For sales and transfers out of stock, the Registrar's directions have to be obtained, but for the other operations (payments in, transfers in, carryings over, and payments out), the simple leaving of the order and other papers dependent upon it is alone necessary. To obtain a power of attorney or a transcript of account, a printed request is required to be filled up, but there is neither difficulty nor complication involved in so doing. Inquiries are constantly made as to the proper form of words to be used in affidavits, and in the request for directions to pay in cash under Acts; but the answer usually given is, that the form is of little consequence; it is accuracy in names, dates, and amounts that is required.

3 and 4. The present office hours were settled in 1853. Before that period they were from 9 to 2, and from 4 to 7, except at certain times of the year, when the afternoon attendance was from 4 to 6. The delivery of drafts was from

11 to 2 only. Since 1853 the hours of attendance have been from 9 to 3, and from 4 to 6 uniformly, and the delivery of drafts has been from 11 to 3; an exception being made in favour of bankers, of delivering to them the drafts which they receive under powers of attorney half an hour earlier. In considering the hours during which the office is open for the delivery of drafts, it must be remembered that a great part of the work of reading the orders and of preparing the drafts and other papers has to be done at other times; the time necessarily taken up in attending to the public, and the constant interruptions thereby occasioned, rendering it quite impossible then to bestow that attention upon the orders which they require; and the clerks either remain after office hours, or take the orders away with them. Upon the whole, it does not appear that any change as to office hours could be suggested which would be more in accordance with the nature of the business. The daily communications with the Bank are most necessary to enable the clerks to enter the various transactions to the respective accounts, so that an accurate knowledge of the state of them may be obtained, and the present hours were fixed with a regard to that consideration. It is not to be forgotten that the Accountant-General's office is almost daily working against (if the term may be used) the Master of the Rolls and three Vice-Chancellors, besides the Lords Justices and the Lord Chancellor, so that the accounts are subject to frequent change.

The vacations as at present regulated were determined in 1845, at the time when the system of frequently-occurring single holidays was changed; the public was greatly benefited by the discontinuance of that interruption to business, and the present arrangement was made with reference to the course and periods of the sittings of the Court, with which it appears in respect of convenience to agree.

There is very considerable pressure of business in the office at particular times of the year, especially at the commencement of the payment of the January and July dividends, and for some weeks previously to the closing of the office for the long vacation. It is probable that there would still be much pressure in July and August even if the Accountant-General's office were not to close at all: as the pressure in a great measure arises from the number of orders and certificates of the chief clerks and taxing masters, then brought in to be acted upon, in consequence of the closing of the Courts and other offices, and the number of cases disposed of at that time of the year. There is no doubt that the closing of the Courts and offices for a long period induces a considerable effort, on the part of all those concerned in carrying out the orders, so to despatch the business thus arising as to prevent the vacation from being regarded as a just cause of complaint. That this is pretty effectually accomplished, so far at least as regards the Accountant-General's office, is proved by the fact that at the reopening of the office at the end of October, very few orders are brought in to be acted upon.

As regards the sufficiency of the present staff of the office, it may be remarked that the preparation for and delivery of the July and January dividend drafts has become very heavy. At the time of the formation of the fourth division of the office (in 1841), the average number of such dividend drafts did not exceed 1,000 for the half-year in each division. In three of the divisions they now exceed 2,000, and in the remaining one they are not much short of that number. The duties of the clerk who delivers the dividend drafts have been so arranged as to leave him little else, during the time the pressure lasts, than that to attend to, but still for the first two or three weeks after the delivery commences it is as much as he can do to manage it, and it scarcely seems practicable to afford him any assistance, as there is at that time a concurrent pressure upon the other seats of the office. With respect to the pressure in August, an attempt of late years has been made to meet it by an arrangement confined to that time. It consists in giving, during that month, to the third clerk the preparation of part of the powers of attorney, and in shifting a portion of the first clerk's work to the second clerk. Probably further relief could be afforded at that time by allowing the second clerk to deliver to the public a portion of the principal drafts, instead of confining the delivery of the whole of them, as at present, to the first clerk's seat. It would be an advantage also, if the office were closed to the public of an afternoon, after the last day of taking in cash orders in August, as the clerks would then be able to proceed with their labours without interruption, instead of being exposed, as they have hitherto been at that time of the year, to a constant stream of inquiries, so long as the office has been open. If the amount of the funds in Court, and the number of accounts in the Accountant-General's books should continue to increase, some addition to the Accountant-General's staff will be requisite, and especially in order to secure to

the profession despatch in making out the transcripts of accounts, the demand for which may happen to be pressing at times when the clerks whose duty it is to make them out may be fully occupied in other equally urgent duties.

5. A voucher for the payment in of money is given at the Bank when money is paid in. It is true it is directed to be brought to the Accountant-General's office, and when brought there it is annexed to a certificate, which is afterwards signed by the Accountant-General, and the two are filed at the Report offices. Office copies can then be obtained whenever the parties choose to bespeak them. The Accountant-General does not require the receipt to be left with him in order to perfect his entry. Formerly the money paid in could not be disposed of in any way until the receipt had been brought to the Accountant-General's office, because it was only by filing the receipt at the Report office that any entry was made in the books kept there of the money having been paid in, and no cheque or draft dealing with the money could pass that office until the money itself appeared on the credit of the particular account. Since the abolition of the office of Clerks of Accounts in 1852, no dealing with any sum of money paid into Court has been delayed in consequence of the receipt for it not having been left at the Accountant-General's office. The question whether the receipt has been left or not has become in that respect of no consequence, the parties leave them when they think fit; sometimes they are not left, and then the money may have come into Court, and have gone out again without leaving any trace of its having been paid in, except in the Accountant-General's books, and in those of the Bank of England. It has, however, been in contemplation that the receipts should not be given by the Bank to the parties paying in, but should be sent up in the evening at the same time with the "slips." This plan would tend to secure accuracy in the titles of the accounts in the Accountant-General's books, and it would also ensure uniformity in regard to the receipts for money paid in being on the file of the Court. The only objection to this plan that could be raised might be on the part of those paying in, who might consider that they had a right to the formal receipt; but, if such an arrangement as is above indicated were made with regard to the receipts, the Bank might give a slight voucher of the amount paid, and the name of the party paying to the Accountant-General's account to satisfy the persons so paying, until the office copy of the receipt and certificate could be procured.

III.

1. The countersignature of the Registrar was no doubt, originally, intimately connected with the entry of the Accountant-General's drafts at the Report office. By the Act 12 George 1. c. 32. *intratur* was to be written on them "and signed by the Registrar," but the direction that the order should be taken with the draft afforded an opportunity to the Registrar of seeing that such draft was in accordance with the intention of the Court, as expressed in the order. Coupling this with the fact that no sale or transfer of stock can take place without the Registrar's certificate having been first obtained, it is seen that a complete system of supervision over the paring with the funds of the suitors was provided. Something similar to this was done at a much later period with regard to the drafts for the salaries of the visitors of lunatics; for by the Act 3 & 4 William 4. cap. 36. it was enacted, that no sum of money should be paid by the Accountant-General out of the funds thereby provided, except upon cheques or drafts signed by the Lord Chancellor. There is no doubt that the countersignature of the Registrar lost much of its apparent meaning by the discontinuance of the entry of the drafts at the Report office, but the opportunity for the Registrar to compare them with the order still remains. Whether, however, any perfect comparison is practicable, considering the number of the drafts daily presented for countersignature, or whether, if it were practicable, it would be indispensably necessary after the careful examination to which the drafts have already been subjected, may be questioned; still it is certain that the necessity for the countersignature before the draft will be paid at the Bank must operate as a considerable security to the Accountant-General against any attempt to pass a draft there, which might have been accidentally dropped before delivery, or stolen from the office. The arrangements with respect to the signature, custody, and delivery of the drafts are fully detailed in the Accountant-General's statement, and it is obvious from it that the present arrangement, by which it is rendered absolutely necessary that before a draft properly signed by him can be paid, two other signatures must be affixed to it (the signature of the party named in the draft and the Registrar's), is very important to be kept up. Of those signatures one is known at the Bank of England, and therefore difficult so to forge, the other not necessarily so.

If, therefore, the countersignature should be discontinued it would be necessary for the security of the Accountant-General, as well as of his clerks, that some other plan should be adopted which would afford a safeguard against any attempt to procure payment for a draft which might have been improperly obtained, similar to that which now exists; and this would probably be best accomplished by requiring that each draft issued from the Accountant-General's office should receive the signature of one of those clerks to whom the duty of delivering drafts belongs, at the time it is handed to the person entitled to receive it; much in the same way that cheques and receipts of public companies, to which the signatures of directors and others have to be affixed beforehand, are signed by a secretary, actuary, or clerk just previously to their being delivered to the parties for whom they are intended. The Bank of England would be furnished with the names of the clerks intrusted by the Accountant-General with the duty of delivering drafts, and as legislative sanction would be required before any proposal for discontinuing the present system of countersignature could be carried into effect, provision could at the same time be made for rendering the signature of some one of those clerks whose names should be so furnished to the Bank both a necessary and sufficient authority for them to act upon.

2. This seems to be matter for arrangement on the part of the Bank.

IV.

1. A separate statement upon this subject, in which the difficulties in the way of change in the present system, and the probability of deriving any adequate profit from such change are considered, is submitted to the Commissioners.

In addition to the considerations there gone into, and apart from all questions of practicability and profit, a doubt may be suggested, with reference to the proposal for using the Suitors' stock, instead of actually buying and selling, whether, on general grounds, it would be expedient to withdraw, or to attempt to withdraw by the substitution of a fictitious system for an actual dealing, so large an amount of property from the operation of the regular market.

It may not be out of place to notice under this head of inquiry the statement made on the part of the Bank that the Accountant-General's account is sometimes overdrawn. It does not appear that there has been any instance of an overdraw during the present century, except one in the year 1856. This occurred immediately after the closing of the office for the long vacation, before the chief clerk had observed that, from the number of drafts issued under orders recently made by the Court when about to close, the balance would be so rapidly reduced as to lead to an overdraw. Upon a notification by the Bank to the Accountant-General he immediately obtained from the Lord Chancellor an order to sell a sufficient portion of the stock standing to the account of "Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery." The cash balances have since been watched with such care that it is believed this could not occur again.

A wish has been often expressed on the part of the profession that the stock transactions of the Accountant-General's office, and especially the sales and transfers, might be more expeditiously effected than they now are. The facts of the case are as follows:—The Accountant-General attends at the Bank of England to accept and transfer stock regularly twice a week—Tuesdays and Fridays. He also attends on other days occasionally, but Tuesday and Friday have been for so long a time the usual days that they are reckoned upon by solicitors as those upon which he will be sure to go. They are the most convenient *transfer* days which could be selected, because they divide the week equally, which no other two days would do consistently with the arrangements of the Bank, Monday and Saturday being private transfer days, on which transfers are not permitted to take place except by the payment of 2s. 6d. each. The stock transactions bespoken at the office on Saturday, Monday, and Tuesday are completed on the following Friday; and those bespoken on Wednesday, Thursday, and Friday, on the following Tuesday, the

longest time (not reckoning Sundays) between bespeaking and completion being five days, and the shortest being three. It would be most inconvenient for the Accountant-General to have to attend in the City on two consecutive days, as on the day before a transfer day there is the preparation of the necessary papers connected with the stock transactions of the morrow, and, on the day after, the drafts arising out of the sales have to be brought to him for his signature, and there is no way of arranging the present public days so as to admit of the Accountant-General's going oftener than he now does, unless two consecutive days are chosen. If, however, the authorities at the Bank should think it convenient to make Monday also a public transfer day, the Accountant-General might attend there an additional day, making three days in the week, Monday, Wednesday, and Friday. By this arrangement the transactions bespoken on Wednesday and Thursday would be completed on Monday, those of Friday and Saturday on Wednesday, and those of Monday and Tuesday on Friday. A day would be left for the preparation and signature of the papers consequent upon the previous transfer day, and those necessary for the next; and as respects three days of the week, one day of the time which now necessarily elapses between the bespeaking and completion of stock transactions would be saved. The drafts dependent upon the sales would be expedited in the same proportion, and besides the advantage which the public would gain in getting their stock transferred to them, and receiving the money arising from sales one day earlier, as respects the transactions bespoken on each of three days of the week, than they now do, the office would derive the benefit of having the work connected therewith spread more evenly over the week than is now practicable.

2. It is presumed that this subdivision of the inquiry refers to the system of keeping at the Bank an entry "causewise" of the funds standing in the Accountant-General's name. To those intrusted with the working in the first instance of the accounts, the advantages, and even the necessity of continuing this system are clear and undoubted. It affords a most efficient check upon all the dealings with the funds of the suitors by preventing any parting with them which the state of the particular account will not justify, and it causes the greatest watchfulness on the part of the Accountant-General's clerks, as they know that any departure from strict accuracy in the titles of the accounts as expressed in the drafts will cause them to be returned. It is the most essential feature of the system introduced by the Act 12 George 1. cap 32., under which the office was established, to prevent a recurrence of the deficiencies in the masters' accounts which the nation was then called upon to make good: the amount of the funds in the hands of the Court was then under 750,000*l.*; it is now more than 50,000,000*l.*; and with the best intention on the part of all concerned in carrying on the business of the office, unless some such check as the Bank Chancery office affords be maintained, the most serious consequences might easily ensue. The Court in drawing up its orders, through the medium of the Registrar, relies to a great extent upon the Accountant-General's certificate for the amount of funds to be disposed of, and any mistake in making an entry might lead to the disposal of a larger sum than there was actually standing on the particular account dealt with. Unless there be a duplicate account kept at the Bank, it would be impossible to obtain a correct balance annually as is now done; and those other safeguards against error referred to in the Accountant-General's statement (page 13 of the printed copy) under the head of "arrangements to secure accuracy" would be lost. In fact this principle of constant examination and check, coupled with the rule that no securities or money can find their way to the Accountant-General's name without his "privity," seems to form the keystone to the security of the whole system, and not only to furnish the best attainable protection against fraud and mistake, but also to afford as complete facilities as can be devised for the detection and tracing of error.

W. RUSSELL, A. G.

NO. X.

OBSERVATIONS of the EQUITY SUB-COMMITTEE of the METROPOLITAN and PROVINCIAL LAW ASSOCIATION in reference to the matters of complaint existing in connexion with the ACCOUNTANT-GENERAL'S Department of the Court of Chancery, and RECOMMENDATIONS and SUGGESTIONS for remedying the same, drawn up in accordance with the request contained in the printed circular letter received from the Secretary to the Chancery Funds Commissioners.

1. IN our judgment, one of the first steps towards a reform of the present provisions for the custody and management of the funds of the Suitors in Chancery should be the opening of a branch office of the Bank of England in Chancery Lane, in, or in immediate connexion with, the Accountant-General's Office there, for, the payment of

Chancery drafts, and for the receipt of monies paid into Court.

2. Very many of the recipients of money out of Court are old and infirm; but even where they are younger and more active, the waste of time and the inconvenience of going to the city to get their money (not to mention the risk of loss)

are sufficient to constitute a considerable grievance. It is likewise very inconvenient, and attended with risk, for persons paying money into Court to be obliged to go first to the Accountant-General's Office in Chancery Lane to obtain his directions and authority for the receipt of the money by the Bank, and then a mile and a half to the Bank of England in the city with the cash.

3. The suitors of the Court are, we think, entitled to more consideration and accommodation in these respects than the present system affords.

4. A branch office of the Bank of England has long been established in the Court of Bankruptcy for the convenience of the suitors of that Court, and we have never heard of any fraud or loss resulting from it.

5. The next step should be the abolition of one of the duplicate sets of books which are kept by the Accountant-General and the Bank of England respectively, for though the cost of one of them is borne nominally by the Bank, the expense of both falls practically on the suitors. We think the Bank duplicate might with safety, and ought to, be dispensed with, and the Bank left to keep the monies of the Court much as it would those of any other customer; so far as we are aware, there is no other public department in which a duplicate set of books showing the subdivisions of every suitor's or customer's account is kept.

6. We beg also to submit the following recommendations which we have arranged under the heads suggested in the circular letter.

I.—*As to forms to be gone through before the suitor reaches the Accountant-General's Office, and, generally, dealings between the Court and the Accountant-General.*

1. *As regards paying money and transferring stock into Court, and the expense and delay involved therein.*

7. We think that money should be allowed to be paid into Court without any special order of the Court, and also to be invested, in the same manner as money paid in under the Legacy Act, and that stock should be similarly permitted to be transferred into the name of the Accountant-General without an order, but that in lieu of an order it should be the duty of the solicitor so paying in or transferring to file with the Accountant-General a certificate signed by such solicitor, and in such form as may be directed by any General Order, stating the amount and the account and purpose in respect of which the money or stock is so paid in or transferred.

8. Under the present system, if the suitor wants to pay in money, he has first to obtain a special order, which it will take from 10 days to 30 or more to procure, according to whether it can be made on summons or petition, or on a formal hearing in a cause.* Having got his order passed and entered, the suitor lodges it at the Accountant-General's Office, and after two clear days gets the "direction" and authority to the Bank to take the money.

9. In addition to the cost and inconvenience of these preliminary and useless forms, it often happens that a purchaser under the Court has to pay interest during the time thus occupied, which he might save if he could pay in without an order.

10. It is hardly necessary to remark that there is no risk in the Court receiving money.

11. We would further suggest that some arrangement ought to be made by the Bank of England for the receipt by its country branches of money going into Court from the country, so as to save the risk, commission and trouble of a remittance to London, and payments to country suitors should also be made, where desired, through such branches.

12. Sums enormous in the aggregate, remitted by trustees, receivers and others, are nearly always lying in cash and uninvested in the hands of London agents, waiting to be paid into Court until the forms of obtaining the necessary orders, certificates and directions can be gone through. This subjects the agents as well as the principals to great and unnecessary responsibility from the risk of the failure of their bankers and other causes, which might be obviated by giving the power of paying into Court without any special order or directions, and either in London or through country branch banks at the option of the suitors.

2. *As regards the present forms of orders, and in what way they might be simplified.*

13. The plan adopted in making payments out of the Slave Compensation Fund, shows how much the system which at present prevails in the Accountant-General's Office is capable of being simplified and improved, and we would recommend that it should be considered whether some such plan might not be usefully introduced there. The principle adopted in the Slave Compensation Orders was that the Court declared rights with reference to the figures, as they stood when the account was opened, and left the Account-

ant-General to apply that declaration to the funds in their altered and accumulated state. It appears to us that the Slave Compensation Forms of Orders might safely and beneficially be employed in a large proportion of cases in Chancery, and that they should be adopted in all cases to which they may prove to be applicable. The reports of the old Masters, and the certificates of the present chief clerks to the Judges, are worked by the Accountant-General by means of Schedules, and we cannot see why a large proportion of orders should not also be so worked.

3. *Whether it would be desirable that the orders or office copies thereof should be transmitted from the Registrar's Office to that of the Accountant-General, and filed there.*

14. We think it would be undesirable that original orders should be filed in the Office of the Accountant-General, as it is important, for many purposes of the suit, that every such original order should remain in the hands of the solicitor having the conduct of such suit; but we think that it should either be the duty of such Solicitor to file an office copy of every money order in the Accountant-General's Office, or that in some way the Accountant-General should be supplied with and keep an official copy or entry of it to work upon.

15. When an order has been completed or "passed" by the Registrar, it is entered in the books of the Report Office, and any office copy is made from these books of original entry. It seems to us that the money orders, i.e., any orders which the Accountant-General has to work, might be entered in separate books from other orders, and these books of original entry might be given into the custody of the Accountant-General to work from. Such orders might be bound or entered in books, subdivided to correspond with the initial letters of the several departments or divisions of the Accountant-General's Office, so that each department might retain, and have always accessible for reference, the orders relating to it.

II. *As to dealings between the suitor and the Accountant-General's department.*

1. *As regards the expenses involved in powers of attorney, and in affidavits of calculation, and certificates of apportionment, and in what cases they might be safely dispensed with.*

16. We are of opinion that powers of attorney, affidavits of calculation and certificates of apportionment might be safely dispensed with in all cases. That in lieu of powers of attorney the present system adopted by the Court of Bankruptcy on payment of dividends (as described in Mr. Clarke's paper) might be safely and usefully substituted, and that in lieu of affidavits of calculation and certificates of apportionment, the Accountant-General's clerks should ascertain and work out the results for which such documents are at present used.

17. As regards calculations, it appears to us monstrous that a department assumed to be skilled in figures, and having all the accounts to be dealt with in its own books and keeping, should throw the burthen of the calculations on the suitors and their solicitors.

18. As a matter of fact, no prudent practitioner ever makes an affidavit of calculation unless of the very simplest character, without first ascertaining whether his figures agree with those in the Accountant-General's books, because the Accountant-General is in no degree bound by the affidavit, and is sure to reject it if it does not correspond with his own books.

2. *As regards the complication and multiplicity of forms in use in the Accountant-General's department, and in what manner they might be most advantageously simplified.*

19. See last answer, and No. 2 of part I.

3. *As regards office hours and vacation.*

20. We think that attendance similar to that required from the vacation Judge and vacation Registrar, should be given by the Accountant-General's department, to deal with matters of pressing urgency; any questions which may arise as to the urgency being determined by the vacation Judge.

21. The present office hours are from ten to three, and from four to six, but we think more convenience would be afforded to the public and the profession, if the partial attendance from four to six were discontinued, and the first mentioned period extended to four o'clock.

4. *Whether the present staff of the Accountant-General's office, and the subdivisions therein, are found by the profession insufficient at times of pressure, especially just previous to the long vacation.*

22. They are no doubt insufficient at times of pressure. But we think the real fault on this head lies in the want of more subdivisions. It seems to some of our body, who have

had the best opportunities of observing, that the junior clerks are often not fully employed at times when the seniors are much overworked.

23. At the Bank of England the alphabet is so subdivided, that in times of pressure there is only one letter for each clerk to attend to.

24. If the calculations for sale and purchase of stock should be thrown upon this department, as we suggest they should be, more assistance will probably be required, and it seems to us that under any system of subdivision, times of pressure will be likely to arise, when the ordinary staff will scarcely be equal to affording the facilities which the public have a right to expect.

25. We think some powers should be given for the employment of Accountants and their clerks for the purpose of giving temporary assistance at such times. They need not be employed on the regular books, but for the purpose of calculations, and work of that kind, they might surely be made very useful.

26. We also suggest that investigation should be made to ascertain whether it is not practicable and safe to purchase in very many instances the stock in which suitors have life interests, in the joint names of the life tenants and of the Accountant-General, and thereby throw the burden of receiving the dividends thereon on such tenants for life, instead of, as at present, engrossing so much of the time of the Accountant-General and his clerks, and multiplying and encumbering his books to the present enormous extent, for no apparently useful purpose; or whether arrangements might not be made for the Bank to recognize and pay dividends under orders to tenants for life direct, even in cases in which the stock is allowed to remain in the sole name of the Accountant-General; the Bank of England, under either system, to notify the fact to the Accountant-General, if two, or say three, consecutive dividends should at any time remain unapplied for.

27. Either of these measures would relieve the Accountant-General's department of such a mass of work as would possibly render even the present staff fully adequate to the efficient performance of all the other duties of the department, without the necessity or expense of calling in further assistance.

5. *Whether any inconvenience is caused from the circumstance that a voucher for the payment in of money is not obtainable immediately after the money is paid in.*

28. There is this inconvenience, that clients in the country, who have forwarded money to their solicitors to pay into Court, are often surprised and uneasy that, instead of receiving an official acknowledgment by return of post, they have to wait about a fortnight for the voucher.

29. We do not see any necessity for the present practice of compelling the solicitor to file the Bank of England receipt with the Accountant-General, who appears to obtain advice of the payment direct from the Bank; but if that practice is to be continued, we would suggest that the Bank should give to the solicitor either a duplicate of such receipt, or a simple accountable receipt on behalf of the Accountant-General, similar to that given by a private banker on receipt of money to his customer's account, which receipt could be sent to the client.

III. *Proceedings of the suitor after leaving the Accountant-General's department.*

1. *As regards the counter-signature of the Registrar.*

30. We believe the counter-signature to be inadequate to prevent fraud, and next to useless. If it be said that the necessity of obtaining another signature after the draft is issued is a difficulty in the way of fraud, one answer would be that a third or fourth signature would be a further check, and so checks might be multiplied *ad infinitum*. But the truth is that this signature is not by any means an effectual check. The Registrar merely signs the draft presented to him, no matter by whom, and never even looks at the order unless in the cases of drafts for "principal" money, or first payment of dividends, and all he can possibly do then is to see that the amount of the draft agrees with that of the order, and that it has not been previously paid. If one of the many signed cheques, now kept in the Accountant-General's clerk's drawers, were improperly abstracted and presented to the Registrar, he would sign and pass it as a matter of course if for interest, and, if for principal, on mere production of the order, which the stealer of the cheque would find in all probability on the Accountant-General's clerk's desk, or in the pigeon hole by its side.

31. Before the "Clerks of Accounts" office was abolished, all drafts issued by the Accountant-General went to that office to be checked and entered, and for "intratur" to be written thereon.

32. On the faith of that "intratur," the Registrar countersigned, in fact he certified the entry of the draft on the account side of the old "Report Office," and when that entry was done away with in 1852, it is difficult to see on what ground the certifying signature was retained.

33. It is almost needless to point out that anything professing to be a check on fraud, which is in reality no such thing, is likely to be mischievous. The supposed check is depended on, and the watchfulness, which a sense of undivided responsibility always produces, is thereby weakened or destroyed.

34. The Accountant-General's Office ought to be so constituted as to render any check upon it unnecessary; but if it should be considered expedient still to have one, a more complete and effectual one than that of the Registrar's counter-signature, under the present imperfect practice respecting it, ought to be adopted.

2. *As regards the distance the suitor has to go for his money.*

35. This would be obviated by establishing a branch of the Bank of England in Chancery Lane, as recommended at the commencement of these observations, and we cannot insist too strongly on the necessity of such a change, and on the suitor's right to such an accommodation.

IV. *As to dealings between the Accountant-General and the Bank of England.*

1. *As regards the present method of buying and selling stock.*

36. No reason has been discovered for doubting the perfect fairness with which the sales and purchases are conducted. Still we are not aware of any existing security to prevent undue advantage being taken of the fluctuation of the price of stock during the day, or of the power of influencing the market. And it is important that the minds of the suitors and public should be relieved from all feeling of uneasiness or suspicion on such an important point. It should be shown that unfairness is impossible.

37. The following plan will, we think, be found free from all the objections which have been raised to the other modes which have been suggested for getting rid of this anomaly, viz.:—

That the office of broker to the Court of Chancery should be abolished, and that, instead of buying and selling the balance of stock required on each particular day, the necessary amounts should be provided by carrying over a proper sum, ascertained on the daily average price of stock, from the stock amounting to nearly three millions, which has been purchased on account of the fund, which is termed "Fund A," in the report of the Concentration of Courts Commission.

38. It is needless to do more here than indicate the method we suggest, which is simply in principle that of a "jobbing account," to and from which sales and purchases would have to be debited and credited to meet the demands of the separate accounts of the suitors.

39. There is a steady increase of the stock in Court year by year, and to meet this increase (which of course represents a surplus of purchases over sales), stock would have to be bought for the "jobbing accounts," at periods and in sums which could readily be arranged.

40. We observe that Mr. Parkinson makes out that the double one-eighth is not really paid. If so, we do not see that the individual suitor has any right to this saving, and if the Court were its own jobber it would get the profit.

41. The jobbers under the present system must make their usual profit, and we do not see why the Court should not make it instead. If suitors must be taxed towards the maintenance of the Court, this tax (if it can be so called) is surely a most unobjectionable way of getting the money.

42. There cannot, we conceive, be any difficulty in calculating each purchase and sale at the average price of the day when the sale is bespoken, or of the day before the calculation for it is made, and debiting or crediting the separate account of the suitor and the "jobbing account" of the Court accordingly.

43. Strictly speaking, it seems to us that the day when the order is made for sale or investment is the day when the price of the stock should be ascertained. At any rate, there can be no reason why the actual day when the broker happens to sell or buy should be the one to regulate the price.

2. *As regards the necessity for keeping a duplicate set of accounts at the Bank.*

44. This is, or ought to be, unnecessary. It is not an effectual check against fraud, and is a great impediment and annoyance to the suitors. [See our first suggestions and the "General Remarks" immediately below.]

GENERAL REMARKS.

45. There is one other question which strikes us as of considerable importance, and deserving of very careful consideration. It is as to the office of the Accountant-General himself.

46. When the department was first constituted in 1725, and down to 1764, it appears to have contained only two clerks.

47. With a business of the contracted character existing at that time, and for many subsequent years, the natural and wise thing, no doubt, was to have one head. It was quite possible for one person to supervise thoroughly the whole work of the department. But with a business of the present magnitude, it is plainly out of all question for any gentleman, be his diligence and business aptitude what they may, to exercise anything like an effective control or supervision of the work. It is nearly as much as he can do to sign his name to the vast number of drafts and other documents which under the present system require his signature, and he must trust almost entirely to his clerks for the accuracy of the documents put before him for that purpose.

48. This has been the case for very many years, and the fact that only one case of fraud or even of serious error has occurred, is a proof of the care and trustworthiness of these officers.

49. Drafts in great numbers, and amounting in the aggregate to enormous sums, are kept by these gentlemen in their drawers, with the signature of the Accountant-General already affixed, and there is nothing to prevent the abstracting by any of the clerks (and not much by the public) of such drafts, and obtaining payment of them by endorsing the names of the parties to whom they are payable. The Bank has no means of knowing the signatures of the payees, and, as a proof of the inadequacy of the system to stop such a fraud, the only case of the kind that did occur took place when the old "Clerks of the Accounts Office" was in existence, and their "intratur" was required to the draft, as well as the Registrar's countersignature. In spite of these supposed obstacles, including the check of the Bank duplicate books, the money was got for the draft.

50. In cases where drafts are handed out to third persons under powers of attorney, the clerk who gives out the draft, by putting the attorney's name with his own initials on the back of it, is enabled to authorize the Bank to cash the draft on the indorsement of the attorney instead of the original payee, so that in all such cases (which are very numerous, and involve immense sums of money) the mere initials of the clerk entirely change the destination of the draft, and supersede the signature of the Accountant-General himself.

51. The clerks also look to the correctness of the evidence that the party to receive is alive, and also to a proper identification of the recipients, where they receive in person, and of the "Attorneys," where they do not.

52. We think this proves clearly that the real responsibility of seeing that the draft is given to the right person rests with the clerk issuing it, and we think also that such clerk is the right person to sign the draft, and that he should sign at the time of issuing it, but not before. The effect would be, that a lost or stolen draft could not be cashed without the signature of the clerk being forged, a signature, be it observed, which the Bank would know, as bankers know that of a customer.

53. This, in fact, is the system adopted at the Dividend Office at the Bank of England; the warrant (or draft) there is signed by the party receiving, and attested by the clerk of the Bank, who issues the warrant, and on such attestation the Pay Office cashes the warrant.

54. The result of these remarks is, that it appears to us the personal office of the Accountant-General might be abolished with advantage to the suitors, and that such abolition would expedite the business of the department.

55. Such an arrangement would tend also much to facilitate and secure the keeping open the office for a sufficient period of the long vacation.

56. We would also suggest that the principle laid down by the Post Office Savings Bank Act of this session should be adopted, and a deposit account instituted, where money likely to remain under the control of the court for too short a period to make a request by the suitor for an investment in stock prudent, might at his option be deposited. On such deposits a low rate of interest (say 2l. per cent.) might be allowed, and the principal would be preserved to the suitors at its full amount, free from the effects of any fluctuation in the value of stock.

57. We have only to add that it should be made the duty of some competent and efficient officer to compare periodically and check the Bank pass or account book with the books of the Accountant-General's department, and to take care that too much money is not allowed to lie uninvested and unproductive in the hands of the Bank, but that interest for the benefit of the suitors is duly made of all surplus monies that can be spared for investment.

Signed on behalf of the Equity Sub-Committee of the Association,

J. S. TORR, Chairman.

PHILIP RICKMAN, Secretary.

Dated 26th July 1861.

No. XI.

COPY of the STATEMENT of the BALANCES of the SUITORS' STOCK and CASH in the COURT of CHANCERY on the 1st October 1860, as transmitted to the Lord Chancellor by the Bank of England.

Bank of England, October 1, 1861.

This is to certify that the following sums of Cash and Securities, with other Effects belonging to the Suitors of the High Court of Chancery, are this day standing in the Books kept at the Bank, in the name of WILLIAM RUSSELL, Esq., Accountant-General of the said Court, in trust and to the credit of the several Accounts of the said Suitors, and which have been compared with the Books kept for the Suitors at the aforesaid Accountant-General's office, and agreed therewith.

	£	s.	d.
Total amount of Suitors' Cash	2,702,542	11	11
Cash laid out pursuant to several Acts of Parliament	2,264,744	1	10
Cash in custody of the Bank	437,798	10	1
Bank 3l. per Cent. Annuities	38,510,515	7	1
Reduced Annuities	7,165,697	5	5
New 3l. per Cent. Annuities	5,707,018	19	8
Bank Stock	443,399	9	5
Exchequer Bills	272,800	0	0
East India Stock	169,887	3	2
New 5l. per Cent. Annuities	4,217	19	5
New 3l. 10s. per Cent. Annuities	3,877	10	0
New 2l. 10s. per Cent. Annuities	14,550	0	0
London Dock Stock	74,419	18	11
East and West India Dock Stock	34,882	11	8
Royal Exchange Assurance Stock	3,470	16	2
Hudson's Bay Stock	1,015	0	0
London and North-western Railway Stock	16,318	0	0
St. Katherine Dock Stock	14,950	0	0
Consolidated Stock East India Railway Company	3,470	0	0
India 5l. per Cent. Stock	1,043	10	8
Annuities for terms of years ending 10th October 1864	35	0	0

	£	s.	d.
Annuities for 30 years from 5th April 1855	610	9	7
Notes, Bills, and Private Bonds	27,188	2	10
Mortgages	4,732	11	8
Globe Insurance Shares, 24 Shares of 100l. each.			
Westminster Chartered Gaslight Company, 2 Shares of 50l. each.			
East India Company's 4l. per Cent. Transfer Loan, 103,925 Rs. 10 An.			
Exchequer Orders, 5l. per Annum.			

£52,911,898 5 9

The following Articles, the value of which is not ascertained, belong to the under-mentioned Matters and Causes:—

Matter.—Anonymous, a box containing jewels.
„ Colman, G., &c., a paper said to be his will.
„ Bariatinsky, Princess, &c., a box labelled jewels.
„ Fludyer, Sir Samuel, five chests and one box, marked "Plate and jewellery."
„ Wakeman, M. T., a box labelled "Plate, jewellery, and trinkets."
Cause.—Blount v. Nolan, a box endorsed this cause, foreign securities.
„ Davies v. Hallett, a parcel endorsed this cause, shares, &c.
„ Greville v. Greville, P. E. J. Greville, a box endorsed this cause and account, securities.
„ Greville v. Greville, E. E. Dawson, a box endorsed this cause and account, securities.
„ Greville v. Greville, E. C. Barrs de Cetto, a box endorsed this cause and account, securities.
„ Jones v. Lloyd, a bag of clipped money.
„ Secretary of State, &c., India, v. Meffan, a box endorsed this cause, foreign securities.
„ Kell v. Charman, a box endorsed this cause securities.

Cause.—May v. Da Costa, a debenture deed.
 „ Nixon v. Few, a box endorsed this cause, United States Bank shares.
 „ Pritchard v. Fleetwood, a deed of settlement.
 „ Reeve v. Hancock, two boxes of plate, No. 1 and No. 2.
 „ Staepoole, Duchess, v. Lodge, a box endorsed this cause.
 „ Stephens v. Green, a box endorsed this cause, securities, &c.

Cause.—Sidebottom v. Butterworth, a box endorsed this cause, securities, &c.
 „ Taylor v. Hall, H. Armytage, a box endorsed this cause, railway stock.
 „ White v. Killersby, five tallies.
 „ Warren v. Daly, Residuary, &c., a box endorsed this cause, foreign securities.

(Signed) G. E. GRAY,
 Chief Accountant.

No. XII.

A STATEMENT showing the probable RESULTS of a PLAN for substituting a SYSTEM of EXCHANGES for the present daily PURCHASES and SALES of STOCK.

THE subjoined tabular statements contain the results of calculations, made in the year 1852, for the purpose of ascertaining the probable effects of a plan then put forward, having for its object to dispense with the daily purchases and sales of stock by the Accountant-General's broker.

It was proposed to open an account in the Accountant-General's books in the nature of a stock-jobbing account, with a sufficient sum of stock and cash taken from the general stock and cash belonging to the suitors, and to carry over to that account from the particular accounts with respect to which investments or sales were to be made the cash or stock directed to be invested or sold; and from the stock-jobbing account back to the particular accounts equivalent amounts of stock and cash to answer the investments and sales; the Bank medium price of the day being taken as the basis of calculation.

Considerable advantage, it was thought by the proposers of the plan, would result from its adoption, in respect of the price at which the transactions would be effected; it will be seen, however, from the tabular statements, that although in some cases there would be an advantage, in many there would be none, and in some instances the plan would entail a positive disadvantage.

It appears from "Statement No. 1," that the total amount of cash invested in Consols from October 30, 1851, to December 10 of the same year (the time of shutting of the stock,) was 500,424*l.* 0*s.* 4*d.*, and the amount of Consols purchased therewith 510,020*l.* 11*s.*, giving an average price of 98*l.* 11*s.* or 98½ per cent. very nearly; but as the usual one-eighth per cent. for brokerage was deducted by the broker from the cash invested, the average price at which the investments were made must, for the purpose of comparison with the average price at which the equivalent amounts to be carried over are calculated, be diminished one-eighth, as in calculating those latter amounts brokerage has not been taken into account. The average price, then, at which the investments were made by the broker may be regarded as about 98 per cent.; more nearly 97*l.* 9*s.* 9*d.*, or 97*l.* 19*s.* 10*d.* per cent. Now, if the proposed plan had been in operation, it appears from "Statement No. 1," that the total amount of Consols which would have been carried over from the stock-jobbing account in respect of the above-mentioned amount of 500,424*l.* 0*s.* 4*d.* cash, calculated at the Bank medium prices, would have been 510,758*l.* 13*s.* 3*d.*, which gives an average price of 97*l.* 9*s.* 6*d.*, or about 97*l.* 19*s.* 6*d.* per cent., and the advantage which would be gained by the suitors from the adoption of the plan in respect of investments would have been .017 per cent.; very nearly 4*d.* in 100*l.*, or one-sixtieth per cent.

As regards the sales of stock it appears from "Statement No. 2," that the total amount of cash raised by sale of Consols during the same period of October to December 1851 was 143,007*l.* 1*s.* 1*d.*; and the amount of Consols sold was 146,117*l.* 4*s.* 8*d.*; being at an average price of 97*l.* 8*s.* 1*d.*, or 97*l.* 17*s.* 5*d.* per cent., to which being added one-eighth per cent. for brokerage, as above mentioned, for the sake of comparison with the Bank medium prices, the average price at which the sales were effected becomes 97*l.* 19*s.* 11*d.* per cent. If the proposed plan had been in operation, the total amount of Consols which would have been carried over to the stock-jobbing account in respect of the above amount of 143,007*l.* 1*s.* 1*d.* cash, calculated at the Bank medium prices, would have been 145,832*l.* 13*s.* 5*d.*, giving an average price of 98*l.* 0*s.* 6*d.*, or very nearly 98*l.* 1*s.* 3*d.* per cent. The advantage which would have been thus gained in respect of sales of stock from the adoption of the plan would have been the difference between 98*l.* 1*s.* 3*d.* and 97*l.* 19*s.* 11*d.* per cent., or 1*s.* 4*d.* in each 100*l.*, a little more than one-sixteenth per cent.

There is, however, another point to which it may be as well to direct attention in connexion with this plan, and that is the amount of stock which it would have been necessary actually to purchase in order to supply the deficiency in the stock upon the stock-jobbing account caused by the preponderance of investments over sales.

It was provided in the plan that purchases of stock should not take place until the state of the stock-jobbing account rendered them necessary. It will be seen by referring to the two tabular statements, that by the end of November there would have been brought to the account in respect of investments - £268,786 18 7 cash, and taken away from it in respect

of sales - - - 72,847 19 10 „

causing an increase of cash on the account of - - - £195,938 18 9

Up to the same period there would have been taken away from the account in respect of investments—

£273,303 2 10 Consols,

and brought to the account in respect of sales - - - 73,910 0 6 „

causing a decrease of the Consols on the account of - - - £199,393 2 4 „

On the 1st December the price of Consols appears to have been 98½ per cent., and at that price it would have required 197,149*l.* 18*s.* 10*d.* cash to purchase the above-mentioned deficiency of 199,393*l.* 2*s.* 4*d.* stock; and as the increase of cash on the account corresponding to such decrease of stock was only 195,938*l.* 18*s.* 9*d.*, there would have been a loss occasioned by the transactions of 1,211*l.* 0*s.* 1*d.*

Passing now to the end of the period included in the statements, it appears that during the month of December there would have been brought to the stock-jobbing account for investments - £231,637 1 9 cash, and taken away from it in respect

of sales - - - 70,159 1 3 „

causing an increase of cash on the account of - - - £161,478 0 6

During the same period there would have been taken away from the account in respect of investments—

£237,455 10 5 Consols,

and brought to it in respect of sales 71,922 12 11 „

causing a decrease of the Consols on the account of - - - £165,532 17 6

At the shutting of the stock in December, the price appears to have been 97¼ per cent., and at that price it would have required 162,015*l.* 6*s.* to purchase the last-mentioned deficiency of 165,532*l.* 17*s.* 6*d.*; and as the increase of cash corresponding to such deficiency of stock was only 161,478*l.* 0*s.* 6*d.*, there would have been a loss in respect of the transactions during December of 537*l.* 5*s.* 6*d.* Adding together the two amounts of 1,211*l.* 0*s.* 1*d.* and 537*l.* 5*s.* 6*d.*, they make 1,748*l.* 5*s.* 7*d.* which would have been the loss occasioned by the re-purchase of stock in consequence of the adoption of the plan during the period to which the tabular statements refer; and this loss, it may be remarked, might have been much greater, but for the fall in the price of stock which appears to have taken place in December. The loss, it will be seen, would have amounted to more than one-fourth per cent. upon the total amount of stock dealt with, and in calculating that loss no notice has been taken of the brokerage which would have been payable upon the re-purchase of the stock or of the increase of expense in the Accountant-General's office, occasioned by the necessity of having additional clerks to carry out the proposed plan; those two points having been already adverted to in the paper entitled "Statement showing the principal Difficulties in the way of Change, &c.," furnished to the Commissioners in June last.

S. PARKINSON, Junior,
 Chief Clerk to the Accountant-General.

Accountant-General's Office,
 Chancery Lane,
 12th December 1861.

STATEMENT No. 1.

AN ACCOUNT of the Daily Amounts of Cash INVESTED in Consols in October, November, and December 1851, the Prices, the Amounts of Consols purchased, the Bank Medium Prices, and the equivalent Amounts of Consols at those Prices.

Date.		Cash Invested.	Broker's Price.	Consols Purchased.	Bank Medium Price.	Equivalent Amounts of Stock at Bank Price.
1851.		£ s. d.		£ s. d.		£ s. d.
October	30 - - -	8,872 13 11	97 $\frac{3}{4}$	9,065 6 4	97 $\frac{5}{8}$	9,088 10 11
"	31 - - -	23,470 15 3	97 $\frac{5}{8}$	24,010 19 7	97 $\frac{5}{8}$	24,041 15 0
November	3 - - -	6,581 7 9	97 $\frac{3}{4}$	6,724 5 5	97 $\frac{3}{4}$	6,732 6 6
"	4 - - -	3,422 13 4	97 $\frac{7}{8}$	3,492 10 2	97 $\frac{7}{8}$	3,496 19 6
"	5 - - -	28,721 17 5	{ 98 & 97 $\frac{7}{8}$ }	29,271 19 7	98	29,308 0 7
"	6 - - -	2,804 4 10	98	2,857 15 1	98	2,861 9 6
"	7 - - -	8,521 6 9	98 $\frac{1}{8}$	8,673 2 2	98 $\frac{1}{8}$	8,684 3 0
"	8 - - -	12,176 11 2	98 $\frac{1}{8}$	12,393 8 7	98	12,425 1 2
"	10 - - -	9,631 14 5	98 $\frac{1}{4}$	9,790 16 2	98 $\frac{1}{8}$	9,815 15 3
"	11 - - -	54,456 12 0	98 $\frac{3}{8}$	55,285 17 8	98 $\frac{3}{8}$	55,356 2 9
"	12 - - -	5,734 17 6	98 $\frac{1}{2}$	5,814 16 5	98 $\frac{1}{2}$	5,822 4 1
"	13 - - -	6,847 16 1	98 $\frac{1}{2}$	6,943 5 10	98 $\frac{1}{2}$	6,952 1 8
"	14 - - -	1,730 18 7	98 $\frac{1}{2}$	1,755 1 8	98 $\frac{3}{8}$	1,759 10 5
"	15 - - -	3,105 4 11	98 $\frac{3}{8}$	3,152 10 6	98 $\frac{3}{8}$	3,156 10 9
"	17 - - -	3,414 7 4	98 $\frac{1}{2}$	3,461 19 2	98 $\frac{1}{2}$	3,466 7 2
"	18 - - -	1,594 6 4	98 $\frac{7}{8}$	1,610 8 1	98 $\frac{7}{8}$	1,612 9 1
"	19 - - -	14,622 18 2	99	14,751 19 7	99	14,770 12 3
"	20 - - -	27,952 14 2	{ 99 & 99 $\frac{1}{8}$ }	28,176 10 5	99	28,235 1 2
"	21 - - -	3,391 8 10	99	3,421 7 7	98 $\frac{7}{8}$	3,430 0 7
"	22 - - -	12,216 7 7	98 $\frac{7}{8}$	12,339 15 5	98 $\frac{3}{4}$	12,371 0 4
"	24 - - -	5,197 16 2	98 $\frac{7}{8}$	5,250 6 3	98 $\frac{3}{4}$	5,263 12 0
"	25 - - -	4,473 16 7	98 $\frac{5}{8}$	4,530 8 5	98 $\frac{5}{8}$	4,536 4 0
"	26 - - -	6,386 2 7	98 $\frac{5}{8}$	6,466 19 0	98 $\frac{5}{8}$	6,475 3 3
"	27 - - -	6,397 4 4	98 $\frac{3}{4}$	6,470 0 0	98 $\frac{5}{8}$	6,486 8 1
"	28 - - -	4,044 14 1	98 $\frac{3}{4}$	4,090 14 5	98 $\frac{5}{8}$	4,101 1 10
"	29 - - -	3,016 8 6	98 $\frac{5}{8}$	3,054 12 0	98 $\frac{3}{4}$	3,054 12 0
Total for Oct. and Nov.		268,786 18 7	- -	272,856 15 6	- -	273,303 2 10
December	1 - - -	6,826 13 1	98 $\frac{7}{8}$	6,895 12 1	98 $\frac{3}{4}$	6,913 1 4
"	2 - - -	3,931 2 2	98 $\frac{3}{4}$	3,975 15 6	98 $\frac{1}{2}$	4,006 4 6
"	3 - - -	24,833 4 3	97 $\frac{3}{8}$	25,521 4 7	97 $\frac{1}{2}$	25,535 8 8
"	4 - - -	12,945 6 7	97 $\frac{3}{4}$	13,226 7 4	97 $\frac{5}{8}$	13,260 5 2
"	5 - - -	25,835 10 6	97	26,599 17 7	97 $\frac{1}{8}$	26,600 5 7
"	6 - - -	64,714 0 3	{ 97 $\frac{1}{4}$ & 97 $\frac{1}{8}$ }	66,497 1 0	97 $\frac{1}{2}$	66,543 19 5
"	8 - - -	11,240 6 9	98	11,455 2 4	98	11,469 14 7
"	9 - - -	42,825 7 3	97 $\frac{7}{8}$	43,699 4 4	97 $\frac{7}{8}$	43,755 3 2
"	10 - - -	34,038 12 8	{ 97 $\frac{3}{4}$ & 97 $\frac{7}{8}$ }	34,755 17 5	97 $\frac{1}{2}$	34,822 2 7
"	10 - - -	4,446 18 3	97 $\frac{7}{8}$	4,537 13 4	97 $\frac{3}{4}$	4,549 5 5
Total for December -		231,637 1 9	- -	237,163 15 6	- -	237,455 10 5
Total for the whole period		500,424 0 4	- -	510,020 11 0	- -	510,758 13 3

STATEMENT No. 2.

AN ACCOUNT of the Daily Amounts of Cash RAISED BY SALE of Consols in October, November, and December 1851, the Prices, the Amounts of Consols sold, the Bank Medium Prices, and the equivalent Amounts of Consols at those Prices.

Date.	Cash raised by Sale.	Broker's Price.	Consols Sold.	Bank Medium Price.	Equivalent Amounts of Stock at Bank Price.
	£ s. d.		£ s. d.		£ s. d.
October 1851. 31 - - -	242 8 0	97 $\frac{5}{8}$	248 12 4	97 $\frac{5}{8}$	248 6 0
November 3 - - -	620 15 1	97 $\frac{3}{4}$	635 17 2	97 $\frac{3}{4}$	635 0 11
" 5 - - -	122 3 1	98	124 16 2	98	124 13 0
" 6 - - -	6,545 16 2	97 $\frac{7}{8}$	6,696 8 7	98	6,679 8 0
" 7 - - -	1,324 17 11	98 $\frac{1}{8}$	1,351 18 9	98 $\frac{1}{8}$	1,350 4 3
" 8 - - -	6,684 9 4	{ 98 & 98 $\frac{1}{2}$ }	{ 3,825 15 3 3,000 0 0 }	{ 98	6,820 17 9
" 10 - - -	33 5 4	98 $\frac{1}{4}$	33 18 2	98 $\frac{1}{8}$	33 18 1
" 11 - - -	14 13 11	98 $\frac{3}{8}$	14 19 9	98 $\frac{3}{8}$	14 18 9
" 12 - - -	1,384 9 11	{ 98 $\frac{1}{2}$ & 98 $\frac{3}{8}$ }	{ 390 18 3 1,017 16 3 }	{ 98 $\frac{1}{2}$	1,405 11 8
" 13 - - -	5,858 7 5	98 $\frac{3}{8}$	5,962 14 5	98 $\frac{1}{2}$	5,947 11 9
" 14 - - -	899 10 4	98 $\frac{3}{8}$	915 10 10	98 $\frac{3}{8}$	914 7 7
" 15 - - -	3,839 18 10	98 $\frac{1}{4}$	3,913 6 9	98 $\frac{3}{8}$	3,903 7 6
" 18 - - -	207 12 7	98 $\frac{7}{8}$	210 5 2	98 $\frac{7}{8}$	209 19 10
" 19 - - -	560 6 10	99	566 14 7	99	566 0 1
" 20 - - -	89 3 5	99	90 3 8	99	90 1 6
" 21 - - -	18,642 13 1	98 $\frac{7}{8}$	18,878 13 8	98 $\frac{7}{8}$	18,854 15 5
" 22 - - -	2,382 1 0	98 $\frac{3}{4}$	2,415 5 2	98 $\frac{3}{4}$	2,412 4 1
" 22 - - -	1,645 16 8	98 $\frac{7}{8}$	1,666 13 4	98 $\frac{3}{4}$	1,666 13 4
" 24 - - -	1,278 18 4	98 $\frac{7}{8}$	1,295 2 1	98 $\frac{3}{4}$	1,295 2 1
" 25 - - -	150 17 11	98 $\frac{5}{8}$	153 3 10	98 $\frac{5}{8}$	153 0 0
" 26 - - -	3,137 7 7	98 $\frac{1}{2}$	3,189 4 5	98 $\frac{5}{8}$	3,181 2 5
" 27 - - -	1,746 18 1	98 $\frac{3}{4}$	1,771 5 4	98 $\frac{5}{8}$	1,771 5 4
" 28 - - -	556 15 5	98 $\frac{3}{4}$	564 10 9	98 $\frac{5}{8}$	564 10 9
" 29 - - -	14,878 13 7	98 $\frac{5}{8}$	15,105 5 6	98 $\frac{3}{4}$	15,067 0 5
Total for Oct. and Nov.	72,847 19 10	- -	74,039 0 2	- -	73,910 0 6
December 1 - - -	40 13 0	98 $\frac{7}{8}$	41 3 4	98 $\frac{3}{4}$	41 3 4
" 2 - - -	1,242 11 5	98 $\frac{3}{4}$	1,259 18 2	98 $\frac{1}{8}$	1,266 6 4
" 3 - - -	5,230 7 4	{ 97 $\frac{3}{8}$ & 97 $\frac{1}{4}$ }	5,380 14 4	97 $\frac{1}{4}$	5,378 5 5
" 4 - - -	24 9 7	97 $\frac{3}{4}$	25 1 10	97 $\frac{5}{8}$	25 1 6
" 5 - - -	619 4 6	97	643 6 8	97 $\frac{1}{8}$	637 11 2
" 6 - - -	30,536 5 4	97 $\frac{1}{8}$	31,480 14 0	97 $\frac{1}{4}$	31,399 15 3
" 8 - - -	7,975 4 4	97 $\frac{7}{8}$	8,158 15 8	98	8,137 19 7
" 9 - - -	13,386 13 11	97 $\frac{3}{4}$	13,712 7 5	97 $\frac{7}{8}$	13,677 6 10
" 10 - - -	9,303 11 10	97 $\frac{3}{4}$	9,530 0 0	97 $\frac{3}{4}$	9,517 14 10
" 11 - - -	1,800 0 0	97 $\frac{5}{8}$	1,846 3 1	97 $\frac{3}{4}$	1,841 8 8
Total for December	70,159 1 3	- -	72,078 4 6	- -	71,922 12 11
Total for the whole period	143,007 1 1	- -	146,117 4 8	- -	145,832 13 5

No. XIII.

REPORT of the EQUITY COMMITTEE of the INCORPORATED LAW SOCIETY, on the ACCOUNTANT-GENERAL'S DEPARTMENT of the COURT OF CHANCERY, with SUGGESTED IMPROVEMENTS.

10th December 1861.

THE Council of the Society having referred to this Committee a communication received from the Chancery Funds Commissioners "requesting them to procure from members

" of the Society or a sub-committee, an expression of their opinion in reference to the matters of complaint alleged to exist in connexion with the Accountant-General's department of the Court of Chancery, and the best mode

"of remedying the same," the Committee have considered the letter and the several statements received from the Commissioners, and have held several meetings on the subject. They have also invited the observations and suggestions of a considerable number of solicitors extensively engaged in the practice of the Court of Chancery, and proceed now to state the result of their inquiries and to offer their suggestions.

1. The Court of Chancery is in effect the trustee of all the cash and stock which are under its control. It employs the Accountant-General to keep the accounts, and the Bank of England to receive and pay the money. It deals with the cash and stock by orders made by its Judges, and drawn up and signed by its Registrars; the Accountant-General is charged with the duty of preparing drafts or directions for the payment of money by the Bank according to such orders. Those drafts, after being prepared in the Accountant-General's office and signed by the Accountant-General, are countersigned by the Registrar, who is supposed to compare each draft (except in the case of periodical payments of interest) with the original order. The draft is then presented at the Chancery office in the Bank of England and inspected there, from whence the holder is referred to the cashiers in another office who pay the amount.

2. All stock is placed in the name of the Accountant-General subject to the orders of the Court: these orders are in like manner drawn up and signed by the Registrars, and they subsequently prepare and sign a direction to the Accountant-General for the sale or transfer of the stock as directed by the order, and the Bank (in its capacity of Registrar of the Funded Debt of the kingdom) upon such direction permits the sale or transfer by the Accountant-General.

3. It is to be observed that [in theory as well as in practice] the duty of the Accountant-General, as regards the payment of cash, is to draw cheques on the Bank to be countersigned by the Registrar for payment of the amount specified in the order made by the Court and drawn up and passed by the Registrar, and to keep an account of the cheques paid by the Bank. As regards the sale and transfer of stock it is his duty to obey the order of the Court, and to employ a broker to sell the stock. Although he signs the transfer in the Bank books, the monies produced by the sale do not pass into his hands, but are paid into his account at the Bank subject to the order of the Court. In the case of purchase of stock, the Court, by its order, directs the Accountant-General to draw on the Bank for the amount of the purchase money, which is paid by his cheque to the broker upon the stock being transferred into the name of the Accountant-General.

4. The duty of the Accountant-General with respect to the receipt of cash paid into the Bank on account of the suitors, is confined to keeping the accounts of cash so paid in, which in no case passes through his hands. Except in the case of cash directed to be paid to an individual or to his legal personal representative, the Accountant-General has no authority or discretion whatever: his duty is to obey literally the directions of the Court as signified in its orders, which orders he never sees till they are drawn up and perfected.

5. It follows that after an order directing the payment of cash, or the sale or transfer of stock, has been drawn up and perfected by the Registrar of the Court, the payment, sale, or transfer ought to be carried into effect with the least possible delay, and if the order were expressed in plain and concise terms it could with perfect safety be carried into effect in a much shorter space of time than is now consumed in the operation.

6. The practice at the Accountant-General's office originated when the business of the Court was comparatively small, and when the Accountant-General and the Registrars had ample time personally to examine the cheques and compare them with the orders of the Court, and an effectual control was thus exercised. Since then the funds under the control of the Court and the calls on the time of the Registrars have enormously increased; numerous additional forms from time to time have been framed, and new modes of proceeding adopted, which in the result have increased expense and occasioned delay in the transaction of the extensive business of this department of the Court. And it does not appear that any general revision of the system has ever taken place with a view to condensing the labour, eliminating the unnecessary, and simplifying the good parts of the system. The results are great and injurious delays, and an absence of all effective check or control. No individual exertion can remedy these evils.

7. When the present system was originated the number of accounts was only 415; the amount of cash £152,037; and of stock £589,553. On the 1st October 1850, the number of accounts was 22,757; the amount of cash £2,821,067; and of stock £51,709,106.

8. The Committee proceed to detail *seriatim* the matters of complaint alleged by the solicitors of the Court to exist in the Accountant-General's office, and to suggest the modes which appear to them the best for remedying these complaints, and in so doing they follow the order suggested by the circular of the Commissioners of May 1861.

1. FORMS TO BE GONE THROUGH AND DEALINGS BETWEEN THE COURT AND THE ACCOUNTANT-GENERAL.

As regards the Form of Orders for paying Money into Court.

9. An order for payment of money into Court is under the present practice required in most cases: it is drawn up and entered at the Registrar's office. The obtaining and perfecting this order consumes a period varying from one to several weeks. A direction authorizing the Bank to receive the money is then bespoken at the Accountant-General's, which is ready in two days; this direction is then taken with the money to the Bank of England, and a receipt obtained from one of the cashiers, which is brought back to be filed at the Accountant-General's, and an office copy of the receipt obtained after the lapse of several days. Thus four or five days are occupied, after the order has been drawn up, by a proceeding which might be commenced and completed in one day, or at most within two days.

10. Where money is voluntarily paid into Court, it is submitted that no order is necessary, but it will be sufficient that a simple note or request in writing, specifying the account to which it is to be paid, be signed by the solicitor and countersigned by a clerk in the Accountant-General's office, to show that a duplicate has been lodged there. Where an order is required, it might, in most cases, be made at the Judge's Chambers; and the form might be simplified so that it might be ready the next day, and the money might be immediately paid in, as in a Common Law action.

11. The order of the Court, when necessary, might be as follows:—

In Chancery.

M. R. day of 1861.

Smith v. Brown. (1860—S—20.)

Thos. Jones, the purchaser, is to pay into Court on or before the day of the sum of £4,122, for the purchase money of Lot 6 and interest, viz.:

Purchase money Lot 6 - - - £4,000
Interest from 1 May to this day - - - 122

£4,122

The above sum to be placed to the credit of this cause, the sales of the real estate.

A.B., Registrar.

12. The solicitor of the party paying in the money might in all cases sign (in triplicate) a note or requisition in the following form, varied according to the circumstances, one copy of which should be left with the Accountant-General, another countersigned by the clerk of the Accountant-General should be handed to the Bank with the money, and the cashier of the Bank should sign and return the third copy to the person paying the money as a voucher for its payment:—

To the Cashier of the Bank of England.
Receive from Mr. Jones, the purchaser, pursuant to an Order dated the day of [or if there be no Order, then omitting the words *pursuant to an Order*, &c., and stating for what purpose the money is paid in], the sum of £4,122, to be placed to the credit of the cause "*Smith v. Brown*," 1860—S—20, the sale of the real estate, [or as the case may be].

Purchase money - - - £4,000
Interest from 1 May to this date - - - 122

£4,122

C.D., Solicitor for the said purchaser.

For the Accountant-General,

Received £4,122 for the Bank of England,
Y.Z.

As to the Form of Orders for Payment of Money out of Court.

13. It is suggested that the order should be simplified in language, and that all directions to the Accountant-General for payment of money or transfers of stock should, as far as practicable, be specified by means of a Schedule in a tabular form, subjoined to each order, containing the names of the persons to whom payments are to be made, and the sums to be paid to each person, and that a duplicate of such Schedule should be certified by the Registrar and lodged with the Accountant-General, and filed by him:—the object being that the Schedule should be complete in itself, without involving the necessity of reference to the order. (A specimen of such Schedule will be found in the Appendix.) This duplicate should be retained by the Accountant-General. One frequent cause of delay is that the

Delays under the present practice of paying in money,

Proposed remedy. Abolition of orders on voluntary payments.

Proposed form of order.

Requisition of the solicitor.

Form of orders for payment out of monies.

Copies of orders for the Accountant-General.

order which is required to be produced to the Registrar when he passes cheques, is either in the possession of the solicitor having the conduct of the cause, or has been lent to one of the numerous other solicitors concerned for creditors or legatees, and many days may be lost in obtaining its production, while the parties are delayed in receiving their money.

II. DEALINGS BETWEEN THE SUITOR AND THE ACCOUNTANT-GENERAL'S DEPARTMENT.

As regards the Expense of Powers of Attorney.

14. The expense involved in powers of attorney is very great, and where the sums are of small amount is very oppressive. In every case, whatever be the amount to be received, the Accountant-General requires that the signature of the power be verified by affidavit. No such affidavit is required at the Bank of England or in Bankruptcy. The usual cost of the power is as follows:—

	£	s.	d.
Attending to bespeak and procure it	-	0	6 8
Paid for it (for principal sums)	-	1	18 6
(This is reduced where the amount is under £20, to 9s.)			
Attending attesting execution	-	0	6 8
Attending, filling up, and swearing affidavit of execution	-	0	6 8
Paid oath and exhibit	-	0	3 6
Attending to lodge same and receive cheque		0	6 8
	£3	3	8

Where the party signing the power is in the country the amount is increased by employing an agent.

15. This cost might be much reduced if the Legislature would repeal or reduce the stamp duty—and it is submitted that in lieu of powers of attorney for the receipt of money out of court it should be sufficient that an authority in a printed form to be issued by the Accountant-General should be signed by the person entitled to the money, and the signature should be attested by two witnesses, one of whom should be a clergyman or a person qualified to administer an oath, who should state in the attestation the nature of his qualification. In the Common Law Courts, where a defendant pays money into court, the attorney for the plaintiff receives it out of court upon an authority signed by the plaintiff and attested by an attorney.

This authority might either be free from stamp or carry a stamp varying from 2s. 6d. to 10s., according to the amount.

16. It is submitted that the following may be the form of authority:—

Form of authority.

To the Accountant-General of the Court of Chancery.

Wilson v. Taylor. 1860—W—56.

I hereby authorize _____ of _____ [or the amount] to be paid to me pursuant to the Order in this cause of the _____ day of _____ 186 _____.

Dated this _____ day of _____ 186 _____.

Witnesses,
A. B., of _____
C. D., of _____

Affidavits of Calculation.

Affidavit of Calculation may generally be dispensed with.

17. It is submitted that affidavits of calculation, which occasion expense and delay, may be abolished. Under the present practice, when a sum is paid to one person and the residue of the fund to another, an affidavit of the amount of the residue is required, however simple the calculation may be. The Accountant-General's clerks in fact supply the materials for the affidavit, (such as the amount of residue of stock after a sale, which is of course best known to the Accountant-General, who made the sale,) and then the solicitor's clerk makes the affidavit from their information. The affidavit may be dispensed with in all cases where the fact to be verified is a residue or amount requiring simple apportionments or addition, subtraction or division. In matters requiring special apportionments, or in complicated accounts, the Accountant-General might still require the office copy of the certificate of the chief clerk, or the certificate of the solicitor.

18. Where sums are directed to be paid, on being ascertained by the Taxing Master or otherwise, an office copy of the certificate or document fixing the amount should be left with the Accountant-General and be retained by him.

As to Payment of Money out of Court.

19. When a sum of money is ordered to be paid out of court, it is the duty of the Accountant-General to prepare and sign a cheque or order (requiring indorsement) upon the Bank of England for payment of £ _____ to A.B. _____; this cheque is incomplete, and has no validity till countersigned by the Registrar.

20. The Registrar was intended to be a check upon the Accountant-General. In practice this check is illusory, the signature of the Registrar has degenerated into little more than an empty form, and we think it may be dispensed with.

21. We recommend, as regards capital money and the first payments of income, that when a solicitor bespeaks a cheque he should do so by a written request, and that a duplicate of this request, signed by the solicitor, should be filed with a clerk or officer of the Bank of England, who would thus possess information of all cheques which have been bespoken. Each cheque, after it has been issued at the Accountant-General's office, should be presented before payment to this officer, who will countersign it (as the Registrar now does) after comparing it with his register. By this means the signature of the Chancery Registrar may be dispensed with, and the evils complained of in par. 13 will be avoided.

22. As regards periodical payments of income, a duplicate of the list of payments, which we have below suggested should be transmitted to the Bank of England from the Accountant-General's office, should be filed with the check clerk. This will enable him to examine the cheques drawn in respect of income, after signature and before payment.

Separate Department for Periodical Payments.

23. It would very much simplify the business of the Accountant-General's office, and relieve those who are at present overburdened with work and responsibility, if the payments of income were made (after the first payment) at a separate office. This would be an enormous relief (the Accountant-General says there are upwards of 21,000 cheques drawn annually for periodical payments), and the machinery in operation at the National Debt Office might be readily adapted to this purpose. The chief clerks of the Accountant-General might transmit half-yearly to the Bank of England a list of the dividends, with the names of the parties entitled to receive them. We recommend that some such course should be adopted.

Duplicate Accounts at the Bank of England.

24. It was thought that the keeping of duplicate accounts at the Bank of England would form an important check upon the Accountant-General's office; but it appears to your Committee to be virtually no check at all.

1st. There is no more necessity for the Bank of England being made acquainted with the names of the suitors to whom the money in its custody belongs, than for a private banker to be informed, when an auctioneer pays in deposits to his account, of the names of the parties entitled to such deposits.

2nd. A system of duplicate accounts is no sufficient safeguard against mistakes or frauds. If a mistake is made in preparing a cheque, it is repeated in the duplicate books at the Bank of England. Much time, trouble, and expense are consumed in keeping the two sets of accounts in exact agreement with each other, without any adequate advantage. It is suggested that, so far as regards the security of the funds, the keeping of duplicate accounts at the Bank of England in their present form is unnecessary.

25. The Bank of England should keep and return to the Accountant-General, day by day, an account of monies received and paid, as is done by the banker of a private individual.

The account might be in the following form:

Cr.	£	Dr.	£
Smith and Brown, (1860, S. 20.) of Jones, purchaser	4,122	Dyer and Salter (1859, D. 15.) John Marks	- 155
White v. Black, (1858, W. 50.)		Do., T. Dry	- 120
R. Mason, mortgagee	1,000	Noakes and Styles, (1850, N. 21.) Abel Hobbs	- 300
Ford and Bridge (1859, I. 25.) Debt, I. Bridge	200	Benson and James, (1850, B. 24.) Sarah Jackson,	£54 4 6
Strong and Welsh, (1859, S. 15.) Hezekiah Smith, bond debtor	500	Bonnet and Haynes, (1853, B. 10.) for £6,000 Consols	- £5,563 16
South Wales Railway Company, (1854, S. 42.) Lord Milford's Trustees	3,000		

Responsibility of Chief Clerks.

26. We suggest also, looking to the enormous increase of the funds subject to the control of the Accountant-General, that it might be desirable to carry further the present system of subdivision, and to make each chief clerk directly responsible for the cheques drawn in his own division. Each chief clerk might sign the cheques in his own department, and thus the number of cheques to be signed by each would be such as would admit of careful examination.

Continuous Audit.

27. Considering the magnitude of the transactions between the Court and the Bank of England, it seems necessary that there should be a systematic and effectual audit or supervision to guard against unintentional errors, fraud, and forgery. Your Committee do not conceive they are called upon to define the particular manner in which this audit or supervision should be carried out, or the

Signal
Regist
Illusor

Duplic
books
Bank
Englan
longer
kept.

Continu
audit.

precise details of any plan. It should however be continuous and effective, and should be carried out by persons independent of the Accountant-General.

28. The objects to be secured are to preserve a general superintendence over the system of book-keeping in the Accountant-General's office, to suggest improvements tending to the simplification of the accounts and the security of the suitors' money, and to call attention from time to time to the balance in the hands of the Bank of England, whenever it exceeds the stipulated amount, with a view to its investment.

IV. DEALINGS BETWEEN THE ACCOUNTANT-GENERAL AND THE BANK OF ENGLAND.

As regards the present System of buying and selling Stock.

29. As the Accountant-General holds a large amount of Stock which he is constantly adding to and diminishing, in obedience to the orders of the Court, it would be a great saving of time and convenience to the suitor if the sales and purchases were effected as far as possible by means of stock standing in the Accountant-General's name without the intervention of a broker, further than to certify the average prices of the day.

V. MISCELLANEOUS RECOMMENDATIONS.

Branch Bank near the Accountant-General's Office.

30. It is indispensably necessary there should be a branch of the Bank of England either under the same roof with, or in the immediate vicinity of, the Accountant-General's office. The journeyings from Chancery Lane to the city by suitors, legatees, creditors, solicitors, and clerks, and by those holding official situations in the Accountant-General's offices, are at present most inconvenient, and lead to a great waste of time. It may be mentioned that clerks from the Bank of England attend at the office of the Accountant in Bankruptcy and cash the cheques issued in that Court.

Office Hours in Vacation.

31. It has been suggested that the Accountant-General's office should be open, for vacation or urgent business only, for a short time daily, or on certain days during the vacation. We think the office should be open from 11 to 2 on two days of the week, and that arrangements might be made for this purpose without encroaching on the holidays necessary for all parties connected with the office.

Transcripts of Suitors' Accounts.

32. Certificates of the Accountant-General of payments of money into the Bank, and of the other transactions effected by him, might be abolished, but the Accountant-General's transcripts of his books ought to be given out the day after they are bespoken (at present there is great delay), and such transcripts should contain the date of the receipt or payment, from or to whom received or paid, under what order, and on what account, and the price of stock bought or sold; and we recommend that it be made obligatory that the Accountant-General should send to the plaintiff's solicitor, and that the latter shall be bound to obtain at least annually, a transcript of the Accountant-General's account in each suit, and the Registrar should be authorized to act on them without requiring a certificate of the fund in Court on each application to the Court.

Presentation for Payment of Coupons on Foreign Securities.

33. Alteration is also required in the present inconvenient system of dealing with securities (not being Government securities) having coupons attached, such as Spanish bonds, &c. At present neither the Bank nor the Accountant-General will accept the responsibility of the deposit, or present the coupons for payment.

34. The practice is to place such securities in a locked box, which is deposited at the Bank of England under an order (see Seton's Form of Orders, 3rd edit., p. 60), which directs that each half year the box shall be handed back to some person named by the Court (who keeps the key of the box), that he may receive the monies. Each half year it is necessary to bespeak from the Registrar a direction to the Bank to deliver out the box, and this direction is afterwards taken to the Accountant-General, who countersigns it, and on taking away the direction a receipt is signed by the party to whom it is given. The time occupied is usually one day at the Registrar's, and one or two days at the Accountant-General's.

35. The Registrar's direction, countersigned by the Accountant-General, is then taken to the Bank of England, and it is usual to allow a day there for looking out the box. The person named in the direction calls again at the Bank, removes the box, and cuts off the coupons. A fresh direction is then required from the Accountant-General for the re-deposit of the box, and a fresh journey to the Bank for that purpose.

36. This cumbrous mode of proceeding has not even the excuse of security, as the Court gives up all the securities (and not merely the coupons) each half year.

37. It is suggested that the same safe course that is adopted in ordinary cases should be acted on; that the coupons should be cut off and presented by some proper person at the Bank of England or at the Accountant-General's. The expense, delay, and inconvenience now experienced will be thus avoided, and the securities will not leave the custody of the Court or its bankers.

38. Coupons are now attached to Exchequer Bills, and they are not subjected to the above course of procedure.

As to Interest to be allowed to the Suitors on uninvested Cash.

39. The Committee consider it would be extremely beneficial if some arrangement could be made by means of which the suitors might receive a moderate rate of interest on cash belonging to them and remaining in Court uninvested, beyond a certain period to be fixed.

40. They think that two per cent. would be a reasonable and proper rate of interest to allow to the suitors on all monies to be paid into Court after a given day.

At a Meeting of the Council of the Incorporated Law Society, held on Thursday, the 19th day of December 1861.

Read and considered the Report of the Equity Committee of the incorporated Law Society on the Accountant-General's Department of the Court of Chancery, with suggested Improvements, dated the 10th day of December 1861.

Resolved,—

"That the Report be adopted, and that a printed copy thereof be presented to Her Majesty's Commissioners appointed to inquire into the constitution of the Accountant-General's Department of the Court of Chancery, the forms of business in use therein, and the provisions for the custody and management of the stocks and funds of the Court, and to suggest improvements in the said matters, with especial view to the advantage of the suitors, and to the safety, convenience, economy, and despatch in the transaction of the business of the Court, soliciting the Commissioners to consider the Report."

(Signed) JOSEPH MAYNARD, President.

APPENDIX.

In Chancery.

WILSON v. TAYLOR.

1860—W—56.

Schedule to Order on further Directions, dated 1st January 1862, of Payments to be made by the Accountant-General out of cash to be raised by sale of Consolidated Bank Annuities by the said Order directed to be sold.

To Anne Amory, the wife of the Rev. John Amory, of Woodbridge, in the county of Suffolk, clerk, amount of her legacy under the will of the testator	£	s.	d.
	500	0	0
To Samuel Stokes, of Rissington, in the county of Gloucester, gardener, amount of his legacy	19	19	0
To Thomas Benson, of Bourton, in the said county of Gloucester, butcher	34	0	0
To Henry Anson, of Stow, in the said county of Gloucester, tailor	13	0	0
To Benjamin Barton, of Uxbridge, in the county of Middlesex, Esquire, amount of his bond debt	300	0	0
To James Hale of Highgate, in the county of Middlesex, brewer, due on note of hand	50	0	
To Peter Beal, of Stroud, in the county of Gloucester, banker	230	0	0
To Robert Thompson, of Haresfield Court, Cheltenham, Esquire, executor of testator, amount of wages and sundry bills, paid by him	540	0	0
To Hugh Hensman, of 239, Oxford Street, London, builder, half-year's rent of 21, Portland Place, due Lady-day, less tax	175	3	1
To Mary Hemming, of 1, John Street, Clerkenwell, widow, half-year's annuity under testator's will dated 1st May	19	2	3
To Messrs. Stonor and Co., of Gray's Inn, solicitors, plaintiff's costs, when certified by the Taxing Master			
To Messrs. Patey and Co., of 3, New Square, Lincoln's Inn, solicitors, defendant's costs when certified by the Taxing Master			
To James Brotherton, Receiver-General, amount of legacy duty on legacies and residue when assessed			
To Susan Hawtrey, of Slough, in the county of Bucks, spinster, residuary legatee, the clear residue			

No. XIV.

RETURNS furnished by the ACCOUNTANT-GENERAL of the HIGH COURT of CHANCERY in compliance with the Requisitions of the CHANCERY FUNDS COMMISSIONERS, dated 22nd January 1862.

A. 1.		Suitors' Fund.		£	s.	d.
Number of directions for payment of money into Court issued by the Accountant-General during the year ending 1st October 1861	3,877	Balance of cash on 1st October 1860	-	20,054	17	8
		Dividends of 4,119,155 <i>l.</i> 1 <i>s.</i> 1 <i>d.</i> stock	-	118,550	6	11
		Rents of masters' offices let to Commissioners of Patents	-	520	0	0
		Total income	-	139,125	4	7
		Payments	-	64,111	11	1
		Carried over to Suitors' Fee Fund	-	56,193	6	0
				120,304	17	1
A. 2.		Balance of cash on 1st October 1861		£18,820	7	6
Number of certificates of money having been paid into the Bank by suitors filed by the Accountant-General at the Report Office during the same period	3,800	Suitors' Fee Fund.		£	s.	d.
		Interest brought over from "Suitors' Fund"	56,193	6		
		Ditto ditto monies arising from sale of the Six Clerks' Office	21	16	3	
		Six months' dividends, due January 1861, of 201,028 <i>l.</i> 2 <i>s.</i> 3 <i>d.</i> stock on the credit of "monies placed out to provide, &c."				
		(purchased with surplus fees)	2,889	15	7	
		Brokerage paid in by the Accountant-General	4,968	0	3	
		Fees levied on the Suitors	94,704	7	0	
		Total income	158,777	5	1	
		Payments	153,237	19	8	
		Excess of income over payments for the year	£5,539	5	5	
A. 3.		The balance of cash to the credit of the Suitors' Fee Fund Account on the 24th November 1860 (the beginning of the year for which the return is made) was 84,778 <i>l.</i> 17 <i>s.</i> 6 <i>d.</i> , and if this last sum be added to the above excess of income over payments for the year (5,539 <i>l.</i> 5 <i>s.</i> 5 <i>d.</i>), it will make the total balance of cash to the credit of the same account on the 24th November 1861, 90,318 <i>l.</i> 2 <i>s.</i> 11 <i>d.</i>				
Number of directions for transfer of stock into Court issued by the Accountant-General during the same period	709	Analysis of the above payments, distinguishing those charged on each of the above two funds.				
A. 4.						
Number of certificates of stock and securities having been transferred into the name of the Accountant-General filed during the same period	693					
A. 5.						
Number of notifications to Bank Chancery Office of stock transferred in having been accepted issued during the same period	693					
A. 6.						
Number of certificates for carrying over of stocks and securities, as well as cash and interest, issued by the Accountant-General during the same period	3,340					
A. 7.						
Number of certificates of carrying over of stocks and securities, as well as cash and interest having been made, filed by the Accountant-General during the same period	3,340					
A. 8.						
Number of notifications to the Bank Chancery Office of stock purchased having been accepted issued by the Accountant-General during the same period	277					
A. 9.						
Number of certificates of the purchase of stock and securities having been completed filed by the Accountant-General during the same period	6,345					
A. 10.						
Number of notifications to the Bank Chancery Office of sales of stock and securities having been effected issued by the Accountant-General during the same period	2,543					
A. 11.						
Number of certificates of sale of stock and securities having been made filed by the Accountant-General during the same period	2,543					
A. 12.						
Number of tickets to transfer stock out of Court issued by the Accountant-General during the same period	1,621					
A. 13.						
Number of certificates of the transfer of stock and securities having been made filed by the Accountant-General during the same period	1,667					
A. 14.						
Number of notifications to the Bank Chancery Office of stock having been transferred issued by the Accountant-General during the same period	249					
A. 15.						
Number of voluntary certificates issued by the Accountant-General during the same period	7,716					
A. 16.						
Total estimated number of documents signed by the Accountant-General during the same period	93,097					
A. 17.						
Analysis of the receipts of and payments out of the Suitors' Fund for the year ending 1st October 1861, and of the Suitors' Fee Fund for the year ending 24th November 1861, similar to that contained in the Judicial Statistics for the same funds in 1860.						

Total number of cheques signed, 42,223.	
Amount of cash and securities carried over in the Accountant-General's books, 2,262,580 <i>l.</i> 15 <i>s.</i> 3 <i>d.</i>	
Powers of attorney issued, viz. :—	
Impressed with a 5 <i>s.</i> stamp	331
Ditto 20 <i>s.</i> "	829
Ditto 30 <i>s.</i> "	2,078
Without stamp	12
Total number of powers of attorney issued - 3,250	
Total number of accounts open in the Accountant-General's books on 1st October 1861, 23,485.	
Amount of fees collected by Chancery Fee Fund stamps - 667 <i>l.</i> 10 <i>s.</i>	

A. 19.

Number and amount of Parliamentary deposits transferred and paid into Court during January 1862, distinguishing the amount of cash from the amount of stock and securities.

Number of deposits, 140.

	£	s.	d.
Cash deposited - - -	355,572	0	0
Stock ditto - - -	1,122,743	5	11
Exchequer bills deposited - - -	197,600	0	0
Total stock and securities -	£1,320,343	5	11

B. 1.

Amount of the stock and cash and interest transferred and paid into the Bank with the privy of the Accountant-General, to the credit of the Appeal Deposit Account from the establishment of that account in 1852 to 1st October 1861, and the amount thereof paid out to that day, and the amount remaining on that account on the same day.

	Cash.	Stock.
	£ s. d.	£
Bank 3½ per cent. annuities transferred into Court - - -	- - -	10,000
Interest received thereon* - - -	2,439 7 6	—
Cash received from Registrars - - -	20,038 0 4	—
Total transferred and paid into Court - - -	22,477 7 10	10,000
Cash paid out - - -	17,643 17 8	—
Balance 1st October 1861 - £	4,833 10 2	10,000

B. 2.

Amount of the balance of cash in the name of the Accountant-General, at the Bank of England, at the end of each week during the year ending 1st October 1861, and also on the termination of each day in the month of August 1861.

Date to which Balance refers.	Amount of Balance.	Date to which Balance refers.	Amount of Balance.
1860.	£ s. d.	1861.	£ s. d.
October 6	356,562 5 4	June 22	447,934 0 5
" 13	571,389 16 10	" 29	506,612 12 0
" 20	535,321 1 0	July 6	519,561 8 0
" 27	533,571 9 2	" 13	1,084,722 7 11
November 3	417,556 12 1	" 20	970,470 12 8
" 10	443,788 17 5	" 27	927,038 9 0
" 17	439,450 6 10	August 1	885,069 12 11
" 24	487,870 13 1	" 2	848,020 8 7
December 1	451,839 10 3	" 3	812,588 7 2
" 8	197,273 18 6	" 5	815,244 0 10
" 15	161,408 13 8	" 6	778,771 13 3
" 22	258,994 5 4	" 7	780,468 16 1
" 29	271,942 4 6	" 8	829,028 16 0
		" 9	844,366 6 0
1861.		" 10	839,316 0 4
January 5	271,716 9 2	" 12	812,353 9 11
" 12	980,732 5 9	" 13	768,849 16 3
" 19	1,437,605 8 1	" 14	643,214 11 7
" 26	1,325,216 11 1	" 15	614,665 2 9
February 2	1,337,510 15 7	" 16	569,085 4 11
" 9	1,139,752 19 3	" 17	477,006 9 1
" 16	1,000,308 2 6	" 19	586,193 6 1
" 23	894,799 17 1	" 20	451,450 18 0
March 2	780,636 1 3	" 21	412,822 13 10
" 9	689,558 9 11	" 22	420,162 0 2
" 16	703,551 14 0	" 23	416,028 17 7
" 23	590,649 9 10	" 24	413,713 8 8
" 30	570,078 0 11	" 26	410,177 11 7
April 6	593,591 1 2	" 27	409,657 15 2
" 13	734,477 17 6	" 28	408,517 0 2
" 20	689,912 16 7	" 29	406,636 1 2
" 27	670,973 4 7	" 30	431,782 15 3
May 4	729,582 15 1	" 31	431,645 8 2
" 11	448,161 0 8	Sept. 7	433,587 2 2
" 18	453,383 4 4	" 14	432,399 3 0
" 25	473,211 0 10	" 21	435,409 17 10
June 1	442,647 1 2	" 28	437,558 10 1
" 8	460,496 1 5	" 30	437,798 10 1
" 15	486,829 18 10		

B. 3.

Amount paid into the Bank of England to the credit of the Accountant-General during the year ending 1st October 1861, distinguishing the amounts arising by sale of stock or securities, the amount of dividends of stock and securities in Court, and the amounts paid in by the promoters of public undertakings under Acts 1 & 2 Vict. cap. 117, and 9 & 10 Vict. cap. 20, and the other amounts paid in:—

	£	s.	d.
Arising by sale of stock or securities -	2,532,871	17	5
Dividends of stock and securities in Court - - -	1,575,923	7	0
Paid into Court by promoters of public undertakings under the above Acts -	722,418	8	0
Other amounts paid in - - -	3,676,172	16	0

Total amount of cash paid in during the year - - - £8,507,386 8 5

B. 4.

Amount of stock transferred into the name of the Accountant-General and securities deposited in the Bank to the credit of the Accountant-General during the year ending 1st October 1861, distinguishing the amount purchased by the Broker of the Accountant-General and the amount transferred into and deposited in Court by the promoters of public undertakings under Acts 1 & 2 Vict. cap. 117, and 9 & 10 Vict. cap. 120, and the other amounts transferred into and deposited in Court.

	£	s.	d.
Amount of stock and securities purchased by the broker - - -	3,999,708	19	10
Amount transferred in and deposited by promoters of public undertakings under the above Acts - - -	1,261,254	13	9
Amount of other transfers in and deposits - - -	2,155,095	6	2

Total amount of stock and securities transferred into and deposited in Court during the year - - - £7,416,058 19 9

B. 5.

Amount of cash in the Bank on the credit of the Accountant-General paid out during the year ending 1st October 1861, distinguishing the amounts paid out to the broker of the Accountant-General from the amount of the other payments:—

	£	s.	d.
Amount paid out to the broker - - -	3,941,535	6	2
Amount of other payments - - -	4,484,375	19	0
Total amount of cash paid out during the year - - -	£8,425,911	5	2

B. 6.

Number of drafts or cheques for payment of money out of Court drawn by the Accountant-General during the year ending 1st October 1861, distinguishing the number of those drawn in favour of the broker from the number of those drawn in favour of the suitors and other persons, and showing the number of cheques drawn in favour of the broker for 100% and upwards, the number of such cheques under 100%, the number of principal drafts and drafts for the first payment of interest and maintenance, and the number of regular interest drafts:—

Number of drafts drawn in favour of the broker—		
For amounts under 100% - - -	4,054	
For 100% and upwards - - -	2,291	6,345
Number of drafts drawn in favour of suitors and other persons—		
Principal drafts and drafts for the first payment of interest, maintenance, &c. -	13,943	
Regular interest drafts - - -	21,935	35,878
Total number of drafts drawn during the year -	42,223	

B. 7., No. 1.

ACCOUNT of the NUMBER of ACCOUNTS, BALANCES of STOCKS, and SECURITIES and CASH belonging to the SUITORS of the COURT of CHANCERY standing in the Name of the Accountant-General on the 1st October in every Year, from the commencement of the Accountant-General's Office in 1726 (*) to the Year 1847.

1. Accountant-General.	2. Years.	3. Number of Accounts.	4. Stocks and Securities on the various Accounts.	5. Cash on the various Accounts.	6. Cash in the Bank.	7. Investments out of Suitors' Cash.	8. Stock purchased with Cash belonging to the Suitors.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
H. Edwards, Esq.	1726	415	589,553 14 0	*152,037 4 6	*47,985 10 5	* The difference in these amounts was caused by the deficiency of the Masters, which was not made good till 1749.—(Vide foot of next page.)*	
F. C. Marsham, Esq.	1727	766	No balance taken this year.				
	1728	729	700,899 8 8	200,643 15 2	96,592 1 1		
	1729	708	784,336 0 8	199,141 10 4	95,090 16 3		
	1730	703	840,253 12 8	167,045 1 11	62,995 7 10		
M. Thurston, Esq.	1731	714	873,598 12 0	196,131 4 9	92,380 10 8	34,939 1 6	36,850 0 0 Exch. tallies by Act 12 Geo. 2. c. 24.
	1732	735	828,756 1 9	214,680 3 8	110,346 15 9		
	1733	701	904,121 10 3	246,583 10 10	142,532 16 9		
	1734	725	851,441 17 1	248,711 4 11	144,660 10 10		
	1735	723	846,559 8 0	241,206 1 9	137,155 7 8		
	1736	724	931,160 6 9	259,039 0 5	155,628 14 11		
	1737	730	906,803 5 2	230,906 10 1	127,721 5 3		
	1738	737	908,740 19 10	284,793 4 2	181,825 6 3		
	1739	747	959,924 5 7	281,509 10 9	143,812 4 6		
	1740	759	1,036,160 11 7	259,091 4 8	121,603 11 7		
	1741	786	997,230 15 11	298,012 12 5	160,734 12 6		
	1742	823	1,072,829 11 9	235,876 5 8	98,807 18 11		
	1743	806	1,209,025 18 9	280,234 6 9	143,375 13 2		
	1744	856	1,336,724 1 11	262,019 12 0	123,370 11 7		
J. Waple, Esq.	1745	917	1,434,335 2 6	289,622 7 7	153,183 0 4	-	Exch. tallies exchanged for the same amount of Bank 3 per cent. annuities.
	1746	926	1,446,254 19 5	253,379 8 10	117,149 14 9		
	1747	938	1,361,753 13 7	296,293 8 1	160,273 7 2		
	1748	970	1,366,201 9 9	279,273 14 4	143,463 6 0		
	1749	981	1,487,508 12 9	196,545 4 11	161,606 3 5		
	1750	1,016	1,483,235 7 2	181,925 11 2	146,986 9 6		
	1751	1,094	1,621,593 3 8	211,591 1 4	176,651 19 10		
	1752	1,143	1,849,021 14 4	218,649 13 10	183,710 12 4		
	1753	1,191	2,066,039 8 2	250,729 9 9	215,790 8 3		
	1754	1,235	2,236,026 4 11	250,924 14 7	215,985 13 1		
P. Duvall, Esq.	1755	1,260	2,553,542 3 3	259,372 12 3	224,433 10 9	-	22,250 0 0
	1756	1,309	2,577,279 10 7	287,696 5 6	252,757 4 0		
	1757	1,307	2,625,591 5 1	283,283 8 10	248,344 7 4		
	1758	1,330	2,696,295 11 11	279,256 8 5	244,317 6 11		
	1759	1,352	2,720,699 15 2	241,952 7 0	215,241 7 4		
	1760	1,347	2,876,627 4 7	217,112 15 8	182,173 14 2		
	1761	1,354	3,033,233 0 10	206,683 13 10	171,744 12 4		
	1762	1,387	3,059,859 10 4	202,411 15 8	167,472 14 2		
T. Anguish, Esq.	1763	1,422	3,214,625 8 5	228,224 10 0	193,285 8 6	4,995 5 0 79,983 16 3	5,800 0 0 91,350 0 0
	1764	1,423	3,328,433 5 8	246,233 3 10	206,298 17 4		
	1765	1,469	3,617,304 18 11	267,350 12 11	132,411 11 5		
	1766	1,494	3,741,472 8 8	277,532 10 8	157,614 7 11		
	1767	1,580	4,035,090 1 4	311,125 14 10	191,207 12 1		
	1768	1,661	4,682,707 13 10	319,308 11 1	199,390 8 4		
	1769	1,757	4,902,651 3 6	372,989 13 9	233,102 3 6		
	1770	1,790	4,775,936 3 11	377,964 17 4	238,077 7 4		
	1771	1,842	4,992,041 12 8	396,638 3 6	256,750 13 3		
	1772	1,908	5,476,373 8 11	352,327 3 2	212,439 12 11		
	1773	1,973	5,688,730 12 2	365,067 17 10	225,180 7 7		
	1774	2,047	5,759,047 14 7	394,975 19 6	205,088 9 3		
	1775	2,119	5,868,605 3 4	419,532 3 4	229,644 13 1		
	1776	2,206	6,218,159 11 5	384,069 17 1	194,182 6 10		
A. Thomson, Esq.	1777	2,234	6,370,141 17 7	378,587 11 4	167,404 7 11	50,000 0 0	56,513 7 11
	1778	2,277	6,410,548 19 7	391,983 12 8	180,800 9 3		
	1779	2,333	6,628,867 1 6	356,997 5 2	145,814 1 9		
	1780	2,385	6,778,435 7 11	342,102 4 3	139,919 0 10		
	1781	2,471	6,970,651 4 0	452,234 17 1	241,051 13 8		
	1782	2,545	7,117,051 1 4	461,447 14 9	250,264 11 4		
	1783	2,598	7,415,381 5 0	480,221 11 6	269,038 8 1		
	1784	2,652	7,690,769 3 2	471,012 5 9	259,829 2 4		
A. Thomson, Esq.	1785	2,721	7,960,565 11 8	496,965 15 11	285,782 12 6		
	1786	2,819	8,309,828 18 1	558,706 9 10	347,523 6 5		
Total -						£189,887 10 3	212,763 7 11

(*) The first Accountant-General was appointed by an Order of 29 June 1726 (Saunders' Orders, p. 521), in pursuance of the Act 12 Geo. 1. c. 32.

Mem.—On 1 July 1777, the sum of 21,295*l.* 13*s.* 2*d.* was lent on account of the Rolls estate, in pursuance of the Act of 17 Geo. 3. c. 5. but was paid back before 25 August 1794.

1.	2.	3.	4.	5.	6.	7.	8.
Accountant-General.	Years.	Number of Accounts.	Stocks and Securities on the various Accounts.	Cash on the various Accounts.	Cash in the Bank.	Investments out of Suitsors' Cash.	Stock purchased with Cash belonging to the Suitsors.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
T. Walker, Esq.	1787	2,917	8,977,915 6 8	Brought forward	- - -	189,887 10 3	212,763 7 11
	1788	3,079	9,417,403 11 10	538,682 16 3	327,499 12 10		
	1789	3,148	9,728,627 9 4	585,573 17 11	374,390 14 6		
	1790	3,260	10,372,497 14 5	663,973 18 1	452,790 14 8		
	1791	3,447	10,730,792 11 2	575,772 12 7	364,589 9 2		
	1792	3,519	11,862,777 16 5	862,881 9 7	651,998 6 2		
	1793	3,611	12,018,279 8 6	791,128 6 0	279,945 2 7	300,000 0 0	324,955 18 10
	1794	3,670	12,421,145 11 3	731,601 15 0	220,418 11 7		
	1795	3,794	13,313,921 15 8	596,708 6 11	106,820 16 8		
	1796	3,924	14,036,659 10 9	633,003 15 5	143,116 5 2		
	1797	4,131	14,406,539 15 10	513,737 11 3	23,850 1 0		
	1798	4,238	15,447,110 3 2	489,887 10 3	25,666 8 3	overdrawn.	
	1799	4,365	15,991,207 6 4	533,883 6 7	43,995 16 4		
	1800	4,577	16,888,259 3 8	554,799 16 2	64,912 5 11		
N. Smith, Esq.	1801	4,744	17,810,429 19 1	677,652 19 0	178,765 8 9		
	1802	4,942	19,178,839 17 10	570,380 8 5	80,492 18 2		
	1803	5,137	20,203,322 18 8	729,602 7 10	239,714 17 7		
	1804	5,279	20,493,508 9 7	725,488 13 7	235,601 3 4		
	1805	5,447	20,866,617 8 5	716,465 8 2	226,577 17 11		
	1806	5,624	21,083,739 5 5	769,102 3 4	279,214 13 1		
	1807	5,665	21,880,526 14 10	839,015 7 3	349,127 17 0		
	1808	5,818	22,397,847 7 9	873,962 0 7	384,074 10 4		
	1809	5,853	23,181,806 18 8	979,269 3 0	489,381 12 9		
	1810	5,978	24,271,718 14 2	873,429 6 6	383,541 16 3		
	1811	6,150	26,374,925 0 10	890,711 19 0	200,824 8 9	200,000 0 0	289,886 5 6
	1812	6,266	27,953,626 6 11	890,936 8 9	201,048 18 6		
	1813	6,417	28,772,334 18 7	873,341 16 9	183,454 6 6		
	1814	6,533	29,981,682 17 1	905,253 8 7	155,365 18 4	60,000 0 0	100,450 4 8
J. Campbell, Esq.	1815	6,682	31,112,495 4 8	999,798 8 3	249,910 18 0		
	1816	6,819	31,022,424 19 3	905,714 1 11	155,826 11 8		
	1817	7,037	32,106,889 11 9	931,465 10 2	181,577 19 11		
	1818	7,218	32,360,651 15 6	1,170,222 16 11	420,335 6 8	100,000 0 0	128,620 7 0
	1819	7,461	32,746,290 17 9	1,173,868 5 4	323,980 15 1	100,000 0 0	126,382 6 2
	1820	7,521	33,104,202 10 3	1,052,417 5 10	102,529 15 7		
	1821	7,701	34,549,832 12 1	1,104,582 17 11	154,695 7 8		
	1822	7,859	35,429,669 6 0	1,093,790 9 0	143,902 18 9		
	1823	8,075	36,745,398 19 9	1,203,252 9 9	253,364 10 6		
	1824	8,235	37,240,936 13 8	1,192,970 3 3	243,082 13 0		
	1825	8,460	37,850,429 5 4	1,344,875 9 7	394,987 19 4		
	1826	8,674	37,935,816 0 11	1,324,293 3 3	374,405 13 4		
	1827	8,806	37,426,355 7 9	1,237,673 9 5	287,785 19 2		
	1828	9,007	37,719,988 15 11	1,583,587 6 7	633,699 16 4		
	1829	9,134	38,557,886 3 9	1,496,337 4 2	546,449 13 11		
W. G. Adam, Esq.	1830	9,290	38,597,322 7 10	1,278,137 5 11	328,249 15 8		
	1831	9,498	38,726,775 15 11	1,623,465 18 11	673,578 8 8		
	1832	9,671	38,558,182 18 0	1,300,691 2 3	350,803 12 0		
	1833	9,873	39,107,662 16 6	1,448,423 18 11	498,536 8 8		
	1834	10,125	39,526,218 19 0	1,589,037 12 8	489,150 2 5	150,000 0 0	179,875 13 11
	1835	10,289	39,517,346 19 9	1,526,947 16 8	427,060 6 5		
	1836	10,533	40,090,078 11 7	1,526,947 16 8	427,060 6 5		
	1837	10,677	40,108,270 0 2	1,363,196 4 1	263,308 13 10		
	1838	10,914	40,735,542 9 10	1,495,717 14 2	395,830 3 11		
	1839	11,137	40,949,028 3 6	1,467,830 9 8	367,942 19 5		
	1840	11,315	41,347,914 5 0	1,468,212 9 3	168,324 19 0	200,000 0 0	211,292 11 8
	1841	11,431	41,059,337 4 9	1,444,451 0 10	144,563 10 7	100,000 0 0	100,062 10 0
	1842	13,188	44,781,531 8 0	1,480,220 10 9	180,333 0 6	100,000 0 0	100,831 4 8
	1843	13,678	45,812,030 3 9	1,543,604 13 0	243,717 2 9	100,000 0 0	101,265 16 6
	1844	14,081	46,530,577 8 6	1,699,793 9 8	147,329 9 1	252,576 10 4	295,327 7 11
W. Russell, Esq.	1845	14,306	47,463,323 10 10	1,840,095 7 3	287,631 6 8		
	1846	14,667	46,994,674 7 3	1,906,815 7 9	54,351 7 2	300,000 0 0	299,221 13 4
	1847	15,356	48,122,649 15 2	2,199,043 11 1	146,579 10 6	200,000 0 0	195,992 18 0
				2,347,462 15 7	294,998 15 0		
				2,265,710 14 1	213,246 13 6		
AMOUNT of the DEFICIENCY of the MASTERS, remaining unpaid during the following Years, but which was ultimately made good in 1749. ()						2,352,464 0 7	2,666,928 6 1
Cash by Sale of Stock sold in Nov. 1844 and Aug. 1845 to raise 300,000L. to answer the demands of the suitsors.						300,000 0 0	303,098 2 6
						£ 2,052,464 0 7	2,363,830 3 7
1726	£ 104,051 14 1	1738	£ 102,967 17 11				
1728	104,051 14 1	1739	102,758 4 9				
1729	104,051 14 1	1740	102,548 11 7				
1730	104,051 14 1	1741	102,338 18 5				
1731	104,051 14 1	1742	102,129 5 3				
1732	104,333 7 11	1743	101,919 12 1				
1733	104,093 0 9	1744	101,709 18 11				
1734	103,860 6 10	1745	101,500 5 9				
1735	103,635 6 2	1746	101,290 12 7				
1736	103,410 5 6	1747	101,080 19 5				
1737	103,185 4 10	1748	100,871 6 3				

(*) The balances during these years, in column No. 5 in the preceding page, are inclusive thereof, but the balances in column No. 6 are exclusive thereof.

B. 7., No. 2.

CONTINUATION of preceding ACCOUNT (No. 1.), showing the NUMBER of ACCOUNTS and the BALANCES of STOCKS and SECURITIES and CASH in the name of the Accountant-General of the Court of Chancery on the 1st October in each of the Years 1848 to 1861 inclusive.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Account- ant- General.	Years.	No. of Ac- counts.	Stocks and Securities on the various Accounts.	Cash on the various Accounts.	Cash in the Bank.	Invest- ments out of Suitors' Cash.	Stock purchased with Suitors' Cash.	Total Amount remaining invested out of Suitors' Cash.	Total Amount of Stock purchased with Suitors' Cash.
			£ s. d.	£ s. d.	£ s. d.	£	£ s. d.	£ s. d.	£ s. d.
William Russell, Esq.	1848	15,954	48,185,488 13 9	2,349,381 11 3	296,917 10 8	- -	- - -	2,052,464 0 7	2,363,830 3 7
	1849	16,472	47,680,113 1 0	2,577,602 5 10	525,138 5 3	- -	- - -	2,052,464 0 7	2,363,830 3 7
	1850	16,749	47,537,188 10 3	2,484,832 13 3	432,368 12 8	- -	- - -	2,052,464 0 7	2,363,830 3 7
	1851	17,138	48,245,864 12 11	2,583,746 2 7	331,282 2 0	200,000	205,840 16 0	2,252,464 0 7	2,569,670 19 7
	1852	17,455	48,015,826 0 7	2,563,976 9 4	311,512 8 9	- -	- - -	2,252,464 0 7	2,569,670 19 7
	1853	18,046	48,222,906 3 8	3,239,226 18 5	986,762 17 10	- -	- - -	2,252,464 0 7	2,569,670 19 7
	1854	18,727	48,925,913 18 8	2,981,796 3 6	429,332 2 11	100,000	111,801 13 7	2,552,464 0 7	2,899,821 15 6
						100,000	109,096 13 8		
						100,000	109,252 8 8		
	1855	19,499	49,561,496 3 2	2,916,327 7 7	213,863 7 0	100,000	108,991 16 8	2,702,464 0 7	3,063,048 0
						50,000	54,234 8 3		
						- - -	- - -		
	1856	20,133	50,177,365 19 2	2,625,329 1 5	72,865 0 10	- - -	Raised by sale	150,000 0 0	52,631 11 7*
							- - -	- - -	
- - -							- - -		
1857	20,669	50,761,710 11 1	2,463,551 15 10	198,807 14 0	- - -	- - -	2,552,464 0 7	2,905,494 2 9	
						- - -	87,719 18 9		
						- - -	100,000 0 0		
1858	21,412	50,372,446 3 6	2,607,250 2 6	342,506 0 8	- - -	- - -	100,000 0 0	96,117 14 10*	
						- - -	107,095 1 0*		
						- - -	100,000 0 0		
1859	22,174	51,146,903 5 0	2,962,991 3 9	698,247 1 11	- - -	- - -	2,552,464 0 7	110,179 1 2*	
						- - -	100,000 0 0		
						- - -	100,000 0 0		
1860	22,756	51,709,106 7 11	2,821,067 8 8	356,323 6 10	200,000	214,165 6 0	2,264,744 1 10	2,592,102 5 9	
						- - -	2,464,744 1 10		
						- - -	200,000 0 0		
1861	23,485	52,474,099 15 8	2,702,542 11 11	437,798 10 1	- - -	Raised by sale	200,000 0 0	221,300 3 0*	
						- - -	- - -		
						- - -	- - -		
Total Stock as above, purchased with Suitors' Cash, up to October 1861 - - - - -									2,584,967 8 9
Brought over in 1830 from " Money arising by sale of the Six Clerks' Office" - - - - -									500 0 0
Brought over from the Court of Exchequer from " Account of further Money placed out, &c." pursuant to Act 5 Victoria, being Stock purchased with interest on the Funds on that account. - - - - -									20,757 18 11
Total Stock on account of " Monies placed out for the Benefit, &c." (Fund A.), 1st October 1861 - - - - -									2,606,225 7 8

* Sold.

B. 8.

STATEMENT showing the AUTHORITY for and DATES of PURCHASE and some other Particulars of the FUNDS on the Account entitled "Monies placed out for the Benefit and better Security of the Suitors of the "High Court of Chancery," (Fund A.)

Acts of Parliament.	Dates of Investment.	Amount of Cash invested.	Amount of Consols purchased.	Amount of Reduced Annuities purchased.	Amount of 3l. 5s. per cent. Annuities purchased.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.
12 George 2.	August 1739	34,939 1 6	36,850 0 0	—	—
4 George 3.	May 1764	4,995 5 0	5,800 0 0	—	—
5 George 3.	May and June 1765	79,983 16 3	91,350 0 0	—	—
9 George 3.	June 1769	19,969 7 6	22,250 0 0	—	—
14 George 3.	June 1774	50,000 0 0	56,513 7 11	—	—
32 George 3.	June and July 1792	300,000 0 0	—	324,955 18 10	—
50 George 3.	August 1810	40,000 0 0	—	57,553 19 2	—
Do.	Do.	160,000 0 0	232,332 6 4	—	—
53 George 3.	May 1813	60,000 0 0	100,450 4 8	—	—
58 George 3.	August 1818	50,000 0 0	64,620 7 0	—	—
Do.	Do.	50,000 0 0	—	64,000 0 0	—
Do.	December 1818	100,000 0 0	126,382 6 2	—	—
3 William 4.	December 1832	150,000 0 0	—	179,875 13 11	—
1 & 2 Victoria	August 1838	150,000 0 0	153,730 3 4	—	—
Do.	Do.	50,000 0 0	—	52,562 8 4	—
Do.	May 1844	100,000 0 0	100,062 10 0	—	—
Do.	Do.	100,000 0 0	—	100,831 4 8	—
Do.	June 1844	100,000 0 0	—	101,265 16 6	—
Do.	February 1845	300,000 0 0	—	299,221 13 4	—
Do.	March 1845	100,000 0 0	—	—	96,117 14 10
Do.	Do.	100,000 0 0	99,875 3 2	—	—
Do.	July 1851	200,000 0 0	205,840 16 0	—	—
Do.	May 1854	100,000 0 0	111,801 13 7	—	—
Do.	June 1854	100,000 0 0	109,096 13 8	—	—
Do.	Do.	100,000 0 0	—	109,252 8 8	—
Do.	August 1855	100,000 0 0	108,991 16 8	—	—
Do.	Do.	50,000 0 0	—	54,234 8 3	—
Do.	August 1860	200,000 0 0	—	214,165 6 0	—
Total invested by Court of Chancery		2,949,887 10 3	1,630,947 8 6	1,557,918 17 8	96,117 14 10
1 George 4.	Invested by Court of Exchequer and	32,500 0 0	47,882 2 9	—	—
Do.	brought over by	32,500 0 0	—	47,445 5 2	—
1 & 2 Victoria	Act 5 Vict. cap. 5.	93,568 2 0	100,000 0 0	—	—
Do.		94,008 8 4	—	100,000 0 0	—
Total invested		3,202,464 0 7	1,778,829 11 3	1,705,364 2 10	96,117 14 10

—	Date of Sale.	Cash raised.	Consols sold.	Reduced Annuities sold.	New 3l. per Cent. Annuities sold.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.
Sales of Stock	November 1844	100,000 0 0	—	100,566 9 6	—
	August 1845	200,000 0 0	202,531 13 0	—	—
	August 1856	100,000 0 0	—	104,922 6 1	—
	August 1856	50,000 0 0	52,631 11 7	—	—
	November 1856	87,719 18 9	—	—	96,117 14 10
	December 1856	100,000 0 0	—	107,095 1 0	—
	August 1857	100,000 0 0	110,179 1 2	—	—
	August 1861	200,000 0 0	221,300 3 0	—	—
Total sold (to be deducted from the above total)		937,719 18 9	586,642 8 9	312,583 16 7	96,117 14 10
Balance of cash invested and stock purchased		2,264,744 1 10	1,192,187 2 6	1,392,780 6 3	—
Stock brought over from "Money arising by sale of the Six Clerks' Office"		—	500 0 0	—	—
Stock brought over from Court of Exchequer pursuant to the above Act, 5 Vict. cap. 5 (purchased with interest on the stock on "Account of further Money placed out, &c.")		—	9,377 14 5	11,380 4 6	—
Balance of stock remaining on account of "Monies, &c." (Fund A.)		—	1,202,064 16 11	1,404,160 10 9	—

B. 9.

Amount of stock standing on the 1st October 1861, on "Account of securities purchased with surplus interest arising from securities carried to account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery :—"

	£ s. d.
Bank 3l. per cent. annuities	570,700 16 1
Reduced annuities	720,904 3 5
New 3l. per cent. annuities	24 6 0
East India stock	0 4 11
Total	1,291,629 10 5

B. 10.

Amount of stock standing on 1st October 1861, on "Account of monies placed out to provide for the officers of the High Court of Chancery."

Bank 3l. per cent. annuities -- £201,028. 2 3

B. 11.

Amount of stock standing on 1st October 1861 on the account entitled "Money arising by sale of the Six Clerk's Office."

Bank 3l. per cent. annuities - £1,517 9 5

C. 1.—AN ACCOUNT of the Daily Amounts of Cash invested in Consols in October, November, and Dec. 1861, the Prices, the Amounts of Consols purchased, the Bank Medium Prices, and the Number of each such Daily Investments; also the Total Amount of Cash so invested and Consols so purchased, the Total Number of such Investments, and the Equivalent Amounts of Consols at the Bank Prices.

1.	2.	3.	4.	5.	6.	7.
DATE.	Amount of Cash invested (subject to Deduction for Brokerage).	Amount of Consols purchased.	Number of Investments.	Prices at which Consols were purchased.	Bank Medium Prices.	Equivalent Amounts of Consols at Bank Prices (Brokerage not reckoned).
	£ s. d.	£ s. d.				£ s. d.
October 1861.						
30 - - -	40,873 16 6	43,773 14 8	30	93 $\frac{1}{8}$	93 $\frac{1}{8}$	48,898 1 4
„ 30 - - -	4,662 10 0	5,000 0 0	1	93 $\frac{1}{8}$	93 $\frac{1}{8}$	
„ 31 - - -	6,687 16 3	7,152 13 11	9	93 $\frac{3}{8}$	93 $\frac{1}{4}$	7,171 13 3
November 2 - - -	20,087 6 3	21,483 13 1	19	93 $\frac{3}{8}$	93 $\frac{1}{4}$	41,568 3 3
„ 2 - - -	18,675 0 0	20,000 0 0	1	93 $\frac{1}{4}$	93 $\frac{1}{4}$	
„ 4 - - -	12,324 0 10	13,198 8 9	11	93 $\frac{1}{4}$	93 $\frac{1}{8}$	13,233 17 4
„ 5 - - -	9,723 5 2	10,427 1 2	8	93 $\frac{1}{8}$	93	10,455 2 4
„ 6 - - -	2,058 3 5	2,207 2 0	5	93 $\frac{1}{8}$	93 $\frac{1}{8}$	2,210 2 4
„ 7 - - -	5,299 7 10	5,675 6 4	9	92 $\frac{1}{4}$	93 $\frac{1}{4}$	5,682 19 10
„ 8 - - -	4,681 5 0	5,000 0 0	1	93 $\frac{1}{4}$	93 $\frac{1}{4}$	
„ 8 - - -	6,483 2 3	6,915 5 5	16	93 $\frac{3}{8}$	93 $\frac{1}{2}$	11,940 9 10
„ 9 - - -	12,652 10 2	13,478 0 4	14	93 $\frac{3}{4}$	93 $\frac{3}{4}$	13,496 0 2
„ 11 - - -	104,437 15 9	111,104 0 4	6	93 $\frac{7}{8}$	93 $\frac{3}{4}$	111,400 6 1
„ 12 - - -	5,483 9 10	5,825 11 7	23	94	93 $\frac{7}{8}$	5,841 5 4
„ 13 - - -	6,409 6 10	6,818 7 10	12	93 $\frac{7}{8}$	93 $\frac{3}{4}$	6,836 12 7
„ 14 - - -	28,342 11 3	30,151 12 1	15	93 $\frac{7}{8}$	93 $\frac{3}{4}$	
„ 14 - - -	2,315 7 2	2,459 17 6	1	94	93 $\frac{7}{8}$	32,658 4 9
„ 15 - - -	7,994 13 6	8,482 4 9	23	94 $\frac{1}{8}$	94	8,504 19 5
„ 16 - - -	9,475 6 11	10,066 14 6	18	94	93 $\frac{7}{8}$	10,093 11 6
„ 18 - - -	22,070 6 10	23,450 0 1	14	94	94	23,479 1 8
„ 19 - - -	9,131 14 10	9,688 16 9	5	94 $\frac{1}{8}$	94 $\frac{1}{8}$	9,701 14 4
„ 20 - - -	19,408 18 3	20,565 14 3	14	94 $\frac{1}{4}$	94 $\frac{1}{8}$	20,620 7 1
„ 21 - - -	35,797 4 6	37,930 16 3	15	94 $\frac{1}{4}$	94 $\frac{1}{8}$	38,031 11 7
„ 22 - - -	36,155 1 4	38,411 13 11	15	94	94	38,462 16 9
„ 23 - - -	9,963 5 1	10,571 1 11	19	94 $\frac{1}{8}$	94	10,599 4 1
„ 25 - - -	20,182 13 2	21,413 17 10	11	94 $\frac{1}{8}$	94 $\frac{1}{8}$	21,442 7 11
„ 26 - - -	38,118 0 11	40,389 12 9	33	94 $\frac{1}{8}$	94 $\frac{1}{8}$	40,497 5 2
„ 27 - - -	44,853 8 5	47,589 16 6	20	94 $\frac{1}{8}$	94	47,716 8 1
„ 28 - - -	23,371 13 3	24,929 11 10	29	93 $\frac{3}{8}$	93 $\frac{1}{2}$	24,996 8 7
„ 29 - - -	46,688 7 1	50,337 11 1	62	92 $\frac{3}{8}$	92 $\frac{5}{8}$	57,093 3 2
„ 29 - - -	6,194 3 9	6,687 7 7	1	92 $\frac{1}{2}$	92 $\frac{5}{8}$	
Total before the closing for the dividend - - -	620,601 12 4	661,185 15 0	460	—	—	662,632 2 9
November 30 - - -	1,815 0 0	1,991 15 3	3	91	91	1,994 10 1
December 2 - - -	523 5 8	572 13 6	5	91 $\frac{1}{4}$	91 $\frac{1}{4}$	573 9 2
„ 3 - - -	3,246 0 4	3,557 4 8	7	91 $\frac{1}{8}$	91 $\frac{1}{8}$	3,562 3 1
„ 4 - - -	4,385 0 7	4,818 13 11	14	90 $\frac{7}{8}$	90 $\frac{3}{4}$	4,831 19 9
„ 5 - - -	3,919 3 7	4,312 14 0	9	90 $\frac{3}{4}$	90 $\frac{3}{4}$	4,318 13 0
„ 6 - - -	5,214 16 5	5,778 3 8	7	90 $\frac{1}{4}$	90	5,794 4 10
„ 7 - - -	1,927 7 1	2,144 9 6	5	89 $\frac{3}{4}$	89 $\frac{7}{8}$	2,144 9 6
„ 9 - - -	1,170 2 10	1,291 3 7	6	90 $\frac{1}{2}$	90 $\frac{1}{2}$	1,292 19 5
„ 10 - - -	29,111 11 8	32,078 17 0	9	90 $\frac{5}{8}$	90 $\frac{1}{2}$	32,167 9 11
„ 11 - - -	3,951 3 6	4,365 18 7	4	90 $\frac{3}{8}$	90 $\frac{3}{8}$	4,371 19 6
„ 12 - - -	12,375 6 6	13,674 7 5	8	90 $\frac{3}{8}$	90 $\frac{3}{8}$	13,693 6 1
„ 13 - - -	4,218 17 10	4,668 3 11	8	90 $\frac{1}{4}$	90 $\frac{3}{8}$	4,668 4 1
„ 14 - - -	7,922 8 10	8,741 19 10	11	90 $\frac{1}{2}$	90 $\frac{3}{8}$	8,766 3 9
„ 16 - - -	18,158 7 7	20,147 19 8	11	90	89 $\frac{7}{8}$	35,224 18 0
„ 16 - - -	13,500 0 0	15,000 0 0	1	89 $\frac{1}{2}$	90	
„ 17 - - -	3,687 14 2	4,086 1 5	7	90 $\frac{1}{8}$	90	4,097 9 0
„ 18 - - -	6,844 3 6	7,562 10 6	22	90 $\frac{3}{8}$	90 $\frac{1}{4}$	7,583 11 5
„ 19 - - -	8,500 0 0	9,418 5 8	1	90 $\frac{1}{8}$	90	9,444 8 10
Total (ex dividend) after the closing until the end of December - - -	130,470 10 1	144,211 2 1	138	—	—	144,529 19 5
Total during the whole period	751,072 2 5	805,396 17 1	598	—	—	807,162 2 2

C. 2.—An ACCOUNT of the Daily Amounts of Cash raised by Sale of Consols in October, November, and December 1861; the Prices, the Amounts of Consols sold, the Bank Medium Prices, and the Number of each such Daily Sales; also the Total Amount of Cash so raised and Consols so sold, the Total Number of such Sales, and the Equivalent Amounts of Consols at the Bank Prices.

1.	2.	3.	4.	5.	6.	7.
DATE.	Amount of Cash raised (after Deduction for Brokerage).	Amount of Consols sold.	Number of Sales.	Prices at which Consols were sold.	Bank Medium Prices.	Equivalent Amounts of Consols at Bank Prices (Brokerage not reckoned).
1861.	£ s. d.	£ s. d.				£ s. d.
October 30 - - -	347 12 5	373 5 7	3	93 $\frac{1}{4}$	93 $\frac{1}{8}$	373 5 7
" 31 - - -	2,050 17 0	2,199 6 1	2	93 $\frac{3}{8}$	93 $\frac{1}{4}$	2,199 6 1
November 2 - - -	1,226 0 0	1,316 13 1	8	93 $\frac{1}{4}$	93 $\frac{1}{4}$	1,314 14 10
" 5 - - -	5,162 3 9	5,550 14 9	1	93 $\frac{1}{8}$	93	5,550 14 9
" 6 - - -	361 16 6	389 2 0	4	93 $\frac{1}{8}$	93 $\frac{1}{8}$	388 10 8
" 7 - - -	176 3 2	189 5 3	5	93 $\frac{1}{4}$	93 $\frac{1}{4}$	2,390 10 2
" 7 - - -	2,053 0 0	2,201 12 2	1	93 $\frac{3}{8}$		
" 8 - - -	3,471 19 3	3,718 6 0	2	93 $\frac{1}{4}$	93 $\frac{1}{8}$	3,713 6 6
" 9 - - -	611 13 6	653 6 6	1	93 $\frac{3}{8}$	93 $\frac{3}{8}$	652 9 0
" 11 - - -	2,533 13 7	2,702 11 9	3	93 $\frac{7}{8}$	93 $\frac{3}{4}$	2,702 11 9
" 12 - - -	689 13 4	734 14 8	3	94	93 $\frac{7}{8}$	734 13 3
" 13 - - -	188 19 6	201 11 5	2	93 $\frac{7}{8}$	93 $\frac{3}{8}$	201 11 5
" 14 - - -	202 6 11	215 17 6	4	93 $\frac{7}{8}$	93 $\frac{7}{8}$	215 10 11
" 15 - - -	38 1 9	40 10 5	1	94 $\frac{1}{8}$	94	40 10 5
" 16 - - -	6,106 9 4	6,513 13 0	10	93 $\frac{7}{8}$	93 $\frac{7}{8}$	6,504 17 10
" 18 - - -	266 12 7	284 0 5	4	94	94	283 12 11
" 19 - - -	61 17 6	65 17 1	2	94 $\frac{1}{8}$	94 $\frac{1}{8}$	65 14 8
" 20 - - -	6,989 10 2	7,425 16 2	9	94 $\frac{1}{4}$	94 $\frac{1}{8}$	7,425 15 5
" 21 - - -	154 9 5	164 2 11	3	94 $\frac{1}{4}$	94 $\frac{1}{8}$	164 2 2
" 22 - - -	333 5 5	355 1 4	4	94	94	354 10 10
" 23 - - -	6,218 17 11	6,624 17 9	17	94	94	6,615 17 0
" 25 - - -	418 3 5	444 17 10	5	94 $\frac{1}{8}$	94 $\frac{1}{8}$	444 5 5
" 26 - - -	1,524 19 5	1,620 4 7	8	94 $\frac{1}{4}$	94 $\frac{1}{8}$	1,620 3 1
" 27 - - -	6,432 6 2	6,842 18 5	12	94 $\frac{1}{8}$	94	6,842 17 7
" 28 - - -	2,598 7 7	2,779 0 11	7	93 $\frac{5}{8}$	93 $\frac{1}{2}$	2,779 0 3
" 29 - - -	7,652 11 2	8,273 2 5	17	92 $\frac{5}{8}$	92 $\frac{5}{8}$	8,261 17 5
Total before the closing for the dividend - - -	57,871 10 9	61,880 10 0	138	—	—	61,840 9 11
November 30 - - -	4,477 13 1	4,927 7 11	12	91	91	4,920 9 11
December 2 - - -	2,150 10 10	2,360 1 1	8	91 $\frac{1}{4}$	91 $\frac{1}{4}$	2,356 15 1
" 3 - - -	15,180 3 4	16,681 10 6	7	91 $\frac{1}{8}$	91 $\frac{1}{8}$	16,658 12 4
" 4 - - -	453 3 10	499 7 9	3	90 $\frac{7}{8}$	90 $\frac{3}{4}$	499 7 9
" 5 - - -	1,770 4 4	1,956 0 9	3	90 $\frac{5}{8}$	90 $\frac{3}{4}$	1,950 13 0
" 6 - - -	4,160 5 5	4,628 18 10	5	90	90	4,622 10 6
" 7 - - -	9,340 13 2	10,421 19 0	5	89 $\frac{3}{4}$	89 $\frac{7}{8}$	10,392 18 11
" 9 - - -	585 14 1	648 19 8	4	90 $\frac{3}{8}$	90 $\frac{1}{2}$	647 3 9
" 10 - - -	1,721 19 6	1,902 14 8	7	90 $\frac{5}{8}$	90 $\frac{1}{2}$	1,902 14 8
" 11 - - -	1,536 17 11	1,702 19 4	6	90 $\frac{3}{8}$	90 $\frac{3}{8}$	1,700 11 7
" 12 - - -	2,865 1 1	3,174 11 6	1	90 $\frac{3}{8}$	90 $\frac{3}{8}$	3,170 3 8
" 12 - - -	10,843 17 3	12,032 1 1	6	90 $\frac{1}{4}$	90 $\frac{3}{8}$	11,998 14 10
" 13 - - -	12,182 16 10	13,517 15 0	9	90 $\frac{1}{4}$	90 $\frac{3}{8}$	13,480 6 6
" 14 - - -	10,578 0 5	11,720 16 0	9	90 $\frac{1}{8}$	90 $\frac{3}{8}$	11,704 11 9
" 16 - - -	1,236 7 6	1,377 11 5	3	89 $\frac{7}{8}$	89 $\frac{7}{8}$	1,375 13 3
" 17 - - -	6,439 7 10	7,164 17 3	8	90	90	7,154 17 7
" 18 - - -	67,357 16 1	74,738 5 2	23	90 $\frac{1}{4}$	90 $\frac{1}{4}$	74,634 13 9
Total (ex dividend) after the closing until the end of December - - -	152,880 12 6	169,455 16 11	119	—	—	169,170 18 10
Total during the whole period	210,752 3 3	231,336 6 11	257	—	—	231,011 8 9

C. 3.—AMOUNT of CASH paid into the BANK to the Credit of the Accountant-General on each Day during the Year ending 1st October 1861, and of cash in the Bank on the Credit of the Accountant-General paid out on each Day during the Year ending 1st October 1861, and the total Amounts thereof respectively.

Date.	Amount paid in.	Amount paid out.	Date.	Amount paid in.	Amount paid out.
1860.	£ s. d.	£ s. d.	1861.	£ s. d.	£ s. d.
October 1	—	—	January 5	265 7 9	268 6 8
" 2	225 0 0	—	" 7	1,347 10 0	536 16 3
" 3	—	—	" 8	75 15 2	3,693 17 0
" 4	—	—	" 9	569,767 1 7	2,769 3 10
" 5	13 18 6	—	" 10	12,396 18 1	8,456 0 11
" 6	—	—	" 11	63,661 12 7	22,097 18 7
" 8	—	—	" 12	76,095 15 6	26,774 19 9
" 9	—	—	" 14	631,922 9 3	28,037 4 0
" 10	—	268 6 8	" 15	3,077 3 1	21,271 0 0
" 11	—	219 1 3	" 16	12,361 19 5	23,506 19 5
" 12	451 0 0	71 17 6	" 17	7,724 5 9	32,254 7 10
" 13	214,935 16 11	—	" 18	22,528 14 9	45,281 17 1
" 15	—	6,515 7 8	" 19	3,348 2 5	23,738 4 0
" 16	—	8,331 0 2	" 21	22,467 4 6	16,643 0 4
" 17	—	12,890 12 2	" 22	40,195 15 4	93,146 8 10
" 18	—	5,848 6 4	" 23	143 9 11	16,248 4 4
" 19	—	1,352 14 8	" 24	18,549 0 11	14,846 6 6
" 20	—	1,130 14 10	" 25	17,745 14 7	71,243 1 5
" 22	—	555 0 8	" 26	23,476 15 4	22,839 16 2
" 23	—	75 7 5	" 28	10,927 2 6	8,691 2 2
" 24	—	414 3 0	" 29	54,192 2 2	38,182 16 0
" 25	52 8 3	486 19 0	" 30	12,295 14 7	10,360 0 11
" 26	—	87 4 4	" 31	8,926 16 11	8,168 6 2
" 27	—	183 5 8	February 1	43,607 0 6	37,344 6 9
" 29	67 17 4	4,743 11 9	" 2	2,784 12 4	17,692 12 6
" 30	500 0 0	9,261 9 2	" 4	13,146 3 11	18,998 0 10
" 31	8,060 17 11	6,615 3 10	" 5	23,286 19 2	164,824 9 9
November 1	3,640 15 4	7,354 1 1	" 6	3,429 13 10	40,898 18 2
" 2	12,010 7 3	105,081 12 8	" 7	17,047 9 1	12,648 5 6
" 3	5,595 12 9	12,834 8 4	" 8	29,267 13 1	34,184 10 0
" 5	13,975 4 9	18,836 4 1	" 9	5,394 5 8	17,775 16 10
" 6	6,333 8 7	46,124 13 3	" 11	47,021 19 6	10,117 11 8
" 7	16,928 5 10	15,530 9 10	" 12	43,269 17 3	84,086 18 8
" 8	18,260 8 0	8,621 12 3	" 13	13,587 0 11	22,790 15 7
" 9	18,020 4 8	39,572 5 2	" 14	14,636 6 3	34,431 19 8
" 10	90,079 7 3	8,679 9 2	" 15	10,028 3 10	106,794 11 4
" 12	13,791 17 4	16,405 4 10	" 16	6,219 16 4	15,986 3 11
" 13	14,471 16 5	58,110 7 0	" 18	13,730 4 4	11,785 2 3
" 14	10,679 9 10	7,873 18 0	" 19	95,799 17 7	48,446 19 1
" 15	30,876 2 9	7,847 6 1	" 20	4,004 11 5	28,994 6 5
" 16	98,212 5 11	80,035 11 8	" 21	7,673 12 0	10,082 10 2
" 17	8,707 18 11	10,805 14 2	" 22	24,925 10 10	139,669 0 0
" 19	6,961 11 10	3,803 10 2	" 23	13,655 4 1	26,319 7 9
" 20	31,473 0 4	61,377 16 0	" 25	1,965 6 10	8,312 12 6
" 21	13,529 3 7	3,943 4 5	" 26	22,178 1 3	86,967 4 3
" 22	17,310 3 4	7,362 5 9	" 27	33,873 4 2	9,042 13 8
" 23	87,516 16 6	48,444 11 0	" 28	26,772 19 6	39,629 3 0
" 24	24,469 2 8	7,908 4 8	March 1	33,901 16 2	78,172 15 5
" 26	14,057 1 11	6,870 17 3	" 2	13,448 2 5	24,178 17 4
" 27	67,252 10 8	81,604 19 6	" 4	12,077 10 1	6,220 11 6
" 28	3,178 7 7	6,304 5 9	" 5	18,769 2 4	102,271 7 7
" 29	48,841 7 2	6,357 12 4	" 6	6,930 13 11	7,574 6 9
" 30	42,609 0 4	128,378 11 11	" 7	14,512 2 8	29,110 18 9
December 1	24,862 4 10	7,315 8 7	" 8	50,833 1 10	38,557 3 7
" 3	48,396 1 4	4,498 1 5	" 9	10,137 9 2	15,537 2 11
" 4	62,151 16 2	91,649 0 8	" 11	19,383 4 5	6,490 4 10
" 5	47,403 10 0	2,345 14 4	" 12	48,236 15 2	33,943 7 7
" 6	3,769 17 5	10,293 1 11	" 13	20,585 2 11	24,415 17 9
" 7	79,475 8 4	365,877 14 1	" 14	11,203 1 4	8,929 5 1
" 8	3,732 9 2	24,831 1 9	" 15	26,488 10 7	40,728 5 2
" 10	10,996 18 0	7,390 10 11	" 16	8,158 3 1	5,554 13 0
" 11	23,255 1 4	46,247 6 8	" 18	6,610 3 5	6,323 7 10
" 12	5,165 18 5	10,891 11 2	" 19	18,338 1 1	80,734 7 5
" 13	1,106 18 3	6,318 12 3	" 20	7,678 2 5	9,156 7 8
" 14	6,383 6 2	10,540 11 4	" 21	6,465 8 3	16,021 9 5
" 15	3,305 3 0	4,689 17 8	" 22	29,361 4 7	68,778 13 9
" 17	20,614 10 7	5,483 18 2	" 23	8,790 19 7	9,131 17 5
" 18	17,907 18 11	18,259 16 2	" 25	25,428 15 1	23,906 17 11
" 19	13,223 7 3	17,871 7 4	" 26	83,481 2 4	51,831 13 1
" 20	20,644 6 0	4,783 13 1	" 27	43,689 16 11	59,858 18 4
" 21	42,624 4 1	6,247 9 4	" 28	15,509 19 6	62,843 8 8
" 22	64,346 6 7	29,128 17 8	" 29	—	—
" 24	32,402 11 4	16,971 0 3	" 30	21,051 10 6	11,291 15 3
" 26	2,202 19 7	5,073 11 8	April 1	14,014 17 0	864 2 10
" 27	831 0 0	1,249 0 4	" 2	57 13 7	824 19 9
" 28	1,418 7 5	243 5 7	" 3	8,229 10 10	641 12 0
" 29	—	370 1 4	" 4	—	140 14 7
" 31	6 18 3	102 4 5	" 5	4,192 18 5	471 14 11
1861.	—	—	" 6	—	38 15 6
January 1	—	622 19 4	" 8	1,940 3 10	151 0 0
" 2	611 16 6	1,371 11 5	" 9	213,145 11 8	30,274 5 7
" 3	500 0 0	—	" 10	6,541 4 3	7,451 0 11
" 4	1,340 0 0	584 16 0	" 11	8,893 10 6	10,798 1 10

Date.				Amount paid in.				Amount paid out.			
1861.				£	s.	d.		£	s.	d.	
April	12	-	-	33,058	3	2		86,796	16	6	
"	13	-	-	22,441	7	6		9,661	19	9	
"	15	-	-	12,771	9	6		15,270	15	6	
"	16	-	-	39,752	17	9		46,162	2	8	
"	17	-	-	13,999	1	7		19,425	12	2	
"	18	-	-	4,961	14	11		15,011	15	1	
"	19	-	-	31,773	18	1		43,103	13	8	
"	20	-	-	7,835	2	4		16,685	6	0	
"	22	-	-	3,622	17	9		9,450	13	8	
"	23	-	-	12,307	16	4		28,459	1	2	
"	24	-	-	5,065	2	1		11,437	3	10	
"	25	-	-	4,584	18	5		9,634	10	8	
"	26	-	-	83,369	9	9		46,960	1	5	
"	27	-	-	1,998	19	11		23,947	5	6	
"	29	-	-	60,429	1	1		7,834	1	4	
"	30	-	-	64,206	10	10		79,350	18	11	
May	1	-	-	4,902	9	1		9,976	7	9	
"	2	-	-	4,244	1	9		23,762	8	10	
"	3	-	-	97,115	1	0		32,815	18	0	
"	4	-	-	5,202	1	4		23,749	19	9	
"	6	-	-	3,446	7	4		14,827	14	0	
"	7	-	-	68,923	7	7		87,804	2	10	
"	8	-	-	17,680	2	7		116,456	13	9	
"	9	-	-	47,504	6	7		183,907	2	6	
"	10	-	-	51,675	12	6		36,609	19	0	
"	11	-	-	2,548	17	4		33,594	16	3	
"	13	-	-	5,906	15	7		12,296	8	5	
"	14	-	-	3,313	18	3		2,529	8	0	
"	15	-	-	1,600	0	0		703	13	4	
"	16	-	-	6,641	11	6		625	14	5	
"	17	-	-	483	13	0		652	15	0	
"	18	-	-	4,518	10	11		434	6	5	
"	20	-	-	1,312	10	7		266	12	6	
"	21	-	-	3,642	19	7		4,039	7	11	
"	22	-	-	543	14	5		11,459	0	6	
"	23	-	-	5,688	10	2		10,458	10	1	
"	24	-	-	55,106	13	6		21,714	1	8	
"	25	-	-	12,968	13	10		11,497	12	11	
"	27	-	-	7,853	12	7		6,058	19	11	
"	28	-	-	59,012	5	6		68,679	15	5	
"	29	-	-	15,461	4	10		17,420	12	0	
"	30	-	-	16,738	13	11		15,106	11	5	
"	31	-	-	52,888	2	3		26,589	1	5	
June	1	-	-	18,230	12	2		66,893	10	9	
"	3	-	-	5,741	8	2		16,699	10	7	
"	4	-	-	72,287	9	3		17,086	2	10	
"	5	-	-	9,222	18	6		9,020	16	7	
"	6	-	-	6,831	3	4		7,454	0	8	
"	7	-	-	19,931	17	1		27,687	6	8	
"	8	-	-	21,233	13	9		39,451	12	6	
"	10	-	-	20,130	6	8		3,922	11	11	
"	11	-	-	72,912	2	1		42,723	1	10	
"	12	-	-	8,830	1	7		12,731	12	3	
"	13	-	-	18,875	3	1		16,287	9	7	
"	14	-	-	19,569	3	11		43,906	2	6	
"	15	-	-	13,753	9	10		8,165	11	8	
"	17	-	-	2,552	4	6		8,331	4	10	
"	18	-	-	26,622	2	5		26,634	12	3	
"	19	-	-	14,795	11	7		9,230	18	5	
"	20	-	-	2,045	9	3		27,616	3	0	
"	21	-	-	25,772	18	6		32,386	8	10	
"	22	-	-	9,710	10	11		16,195	8	3	
"	24	-	-	37,481	5	8		5,724	14	7	
"	25	-	-	18,228	18	10		22,408	14	2	
"	26	-	-	17,027	13	2		10,397	5	1	
"	27	-	-	18,749	19	8		5,575	3	1	
"	28	-	-	46,403	0	10		27,998	7	7	
"	29	-	-	6,466	2	7		13,574	4	8	
July	1	-	-	15,665	2	8		9,323	8	2	
"	2	-	-	15,847	6	8		21,465	14	6	
"	3	-	-	1,901	19	11		18,531	19	11	
"	4	-	-	7,921	2	9		4,702	16	8	
"	5	-	-	33,775	5	10		20,964	4	3	
"	6	-	-	18,574	10	9		5,748	9	1	
"	8	-	-	3,611	13	1		6,919	18	2	
July	9	-	-	628,519	5	3		53,616	16	4	
"	10	-	-	3,770	19	1		12,371	12	7	
"	11	-	-	18,428	0	11		16,155	17	3	
"	12	-	-	82,115	5	7		53,247	17	11	
"	13	-	-	19,413	10	5		48,385	12	2	
"	15	-	-	13,043	7	7		23,636	12	0	
"	16	-	-	44,324	10	10		100,965	9	9	
"	17	-	-	16,242	12	0		41,508	8	10	
"	18	-	-	2,476	6	9		54,456	15	8	
"	19	-	-	117,050	17	1		72,219	3	11	
"	20	-	-	22,321	16	1		36,924	15	5	
"	22	-	-	39,702	0	11		39,716	0	4	
"	23	-	-	50,233	16	5		60,839	16	5	
"	24	-	-	31,834	7	9		30,275	18	4	
"	25	-	-	2,910	15	2		36,295	13	11	
"	26	-	-	85,511	6	4		66,410	9	3	
"	27	-	-	8,067	1	0		28,153	13	0	
"	29	-	-	12,589	2	8		19,613	3	0	
"	30	-	-	87,713	11	5		58,175	5	5	
"	31	-	-	10,157	12	4		50,586	16	8	
August	1	-	-	14,688	13	1		38,742	10	6	
"	2	-	-	61,481	5	3		98,530	9	7	
"	3	-	-	12,155	13	7		47,587	15	0	
"	5	-	-	32,556	15	0		29,901	1	4	
"	6	-	-	92,347	6	8		128,819	14	3	
"	7	-	-	46,031	1	3		44,333	18	5	
"	8	-	-	83,347	5	5		34,787	5	6	
"	9	-	-	133,054	19	3		117,717	9	3	
"	10	-	-	29,353	10	8		34,403	16	4	
"	12	-	-	4,556	12	8		31,519	3	1	
"	13	-	-	289,543	7	3		333,047	0	11	
"	14	-	-	12,928	2	4		138,563	7	0	
"	15	-	-	32,601	14	3		61,151	3	1	
"	16	-	-	25,701	10	1		71,281	7	11	
"	17	-	-	19,268	14	8		111,347	10	6	
"	19	-	-	286,549	10	7		127,362	13	7	
"	20	-	-	8,674	3	6		143,416	11	7	
"	21	-	-	5,305	12	4		43,933	16	6	
"	22	-	-	16,450	4	8		9,110	18	4	
"	23	-	-	-	-	-		4,133	2	7	
"	24	-	-	-	-	-		2,315	8	11	
"	26	-	-	200	0	0		3,735	17	1	
"	27	-	-	293	17	0		813	13	5	
"	28	-	-	30	0	0		1,170	15	0	
"	29	-	-	-	-	-		1,880	19	0	
"	30	-	-	27,153	3	8		2,006	9	7	
"	31	-	-	-	-	-		137	7	1	
September	2	-	-	-	-	-		459	11	10	
"	3	-	-	2,562	2	7		31	17	8	
"	4	-	-	2,272	10	2		130	5	3	
"	5	-	-	36	0	0		1,764	5	11	
"	6	-	-	-	-	-		538	15	1	
"	7	-	-	-	-	-		4	3	0	
"	9	-	-	-	-	-		70	0	10	
"	10	-	-	-	-	-		218	18	10	
"	11	-	-	-	-	-		362	13	0	
"	12	-	-	-	-	-		17	3	4	
"	13	-	-	101	5	0		18	16	11	
"	14	-	-	-	-	-		601	11	3	
"	16	-	-	-	-	-		925	12	8	
"	17	-	-	212	10	0		-	-	-	
"	18	-	-	2	0	0		-	-	-	
"	19	-	-	1,000	0	0		-	-	-	
"	20	-	-	1,721	17	6		-	-	-	
"	21	-	-	1,000	0	0		-	-	-	
"	23	-	-	-	-	-		-	-	-	
"	24	-	-	-	-	-		-	-	-	
"	25	-	-	-	-	-		-	-	-	
"	26	-	-	1,185	5	0		-	-	-	
"	27	-	-	575	0	0		-	-	-	
"	28	-	-	388	7	3		-	-	-	
"	30	-	-	240	0	0		-	-	-	
Total	-	-	-	£	8,507,386	8	5	£	8,425,911	5	2

C. 4.

AMOUNT of STOCK and SECURITIES transferred into or deposited in COURT by SUITORS and purchased in each Week during the Year ending 1st October 1861, distinguishing the Amount transferred in or deposited from the Amount purchased, and the Total Amounts thereof respectively.

Date of ending of Week.	2. Total Amount transferred into or deposited in Court by Suitors and purchased in each Week.	3. Amount transferred into or deposited in Court by Suitors in each Week.	4. Number of Transfers in and Deposits in each Week.	5. Amount purchased in each Week.	6. Number of Purchases in each Week.
1860.					
November 3 - -	£ 112,633 s. 8 d. 7	£ 16,638 s. 2 d. 9	10	95,995 5 10	55
" 10 - -	102,722 6 5	45,185 5 4	28	57,537 1 1	67
" 17 - -	161,529 15 11	32,028 13 10	18	129,501 2 1	135
" 24 - -	103,361 7 6	18,199 17 11	12	85,161 9 7	198
December 1 - -	296,698 4 1	106,023 19 11	13	190,669 4 2	102
" 8 - -	560,643 10 5	84,899 17 4	30	475,743 13 1	290
" 15 - -	13,918 0 2	2,261 3 6	2	11,656 16 8	1
" 22 - -	18,862 1 3	16,749 6 5	12	2,112 14 10	2
" 29 - -	—	—	—	—	—
1861.					
January 5 - -	—	—	—	—	—
" 12 - -	250,224 6 4	248,742 15 6	22	1,481 10 10	1
" 19 - -	1,118,449 12 7	1,088,590 4 5	72	29,859 8 2	42
" 26 - -	240,708 3 4	88,845 3 9	18	151,862 19 7	98
February 2 - -	75,163 18 7	28,351 16 9	13	46,812 1 10	49
" 9 - -	201,461 11 9	54,345 11 8	16	147,116 0 1	217
" 16 - -	263,456 15 2	45,002 18 0	14	218,453 17 2	310
" 23 - -	188,936 1 3	39,303 0 3	16	149,633 1 0	168
March 2 - -	159,453 5 1	19,316 14 9	9	140,136 10 4	428
" 9 - -	227,940 2 5	67,255 17 11	32	160,684 4 6	340
" 16 - -	94,782 7 6	32,920 18 11	8	61,861 8 7	278
" 23 - -	179,469 11 3	50,088 3 5	15	129,381 7 10	168
" 30 - -	70,568 6 4	17,158 11 10	4	53,409 14 6	34
April 6 - -	—	—	—	—	—
" 13 - -	143,548 19 8	67,170 0 6	20	76,378 19 2	40
" 20 - -	193,907 9 3	129,697 1 8	12	64,210 7 7	71
" 27 - -	138,921 4 4	80,078 18 10	21	58,842 5 6	204
May 4 - -	81,200 7 7	18,597 16 6	15	62,602 11 1	197
" 11 - -	275,662 15 11	40,166 12 2	18	235,496 3 9	126
" 18 - -	—	—	—	—	—
" 25 - -	219,721 5 7	202,439 2 2	26	17 2 3 5	20
June 1 - -	234,348 8 1	88,190 10 7	28	146,157 17 6	184
" 8 - -	38,338 7 10	23,346 4 8	10	14,992 3 2	26
" 15 - -	117,521 3 11	45,018 5 1	12	72,502 18 10	42
" 22 - -	56,123 12 0	21,466 12 8	6	34,656 19 4	32
" 29 - -	42,506 6 9	7,306 15 4	10	35,199 11 5	49
July 6 - -	105,175 3 5	74,292 7 3	12	30,882 16 2	54
" 13 - -	138,164 16 3	74,681 9 1	20	63,483 7 2	43
" 20 - -	97,177 10 10	38,518 7 9	21	58,659 3 1	151
" 27 - -	120,344 14 6	40,534 9 10	24	79,810 4 8	561
August 3 - -	225,302 13 6	87,653 0 4	24	137,649 13 2	811
" 10 - -	270,980 13 11	115,679 15 7	42	155,300 18 4	557
" 17 - -	392,582 10 0	76,051 5 3	34	316,531 4 9	194
" 24 - -	83,548 0 6	83,548 0 6	11	—	—
Total - -	7,416,058 19 9	3,416,349 19 11	730	3,999,708 19 10	6,345

N.B.—In the return made to the Home Office "of the annual amount of business," &c. (see A. 18), a sum of 765,900*l.*, of Exchequer bills received in exchange for old bills, is included, which does not come within the terms of the above account.

C. 5.

AMOUNT of STOCK and SECURITIES in COURT transferred or delivered out to SUITORS and sold in each Week during the Year ending 1st October 1861, distinguishing the Amount transferred or delivered out from the Amount sold, and the Total Amounts thereof respectively.

1.	2.	3.	4.	5.	6.
Date of ending of Week.	Total Amount transferred or delivered out to Suitors and sold in each Week.	Amount transferred or delivered out to Suitors in each Week.	Number of Transfers or Deliveries out in each Week.	Amount sold in each Week.	Number of Sales in each Week.
1860.	£ s. d.	£ s. d.		£ s. d.	
November 3 - -	10,613 19 6	8,844 1 5	13	1,769 18 1	7
" 10 - -	21,134 4 5	8,267 1 9	16	12,867 2 8	18
" 17 - -	55,823 3 1	18,095 11 6	20	37,727 11 7	29
" 24 - -	38,160 19 8	14,163 10 5	15	23,997 9 3	39
December 1 - -	150,356 10 1	88,316 12 8	49	62,039 17 5	59
" 8 - -	263,322 16 10	151,238 17 10	71	112,083 19 0	123
" 15 - -	17 11 9	—	—	17 11 9	1
" 22 - -	54,873 14 7	45,827 12 8	12	9,046 1 11	14
" 29 - -	—	—	—	—	—
1861.					
January 5 - -	—	—	—	—	—
" 12 - -	27,729 6 1	22,590 14 10	5	5,138 11 3	7
" 19 - -	72,474 19 0	54,144 18 8	32	18,330 0 4	49
" 26 - -	165,201 15 11	130,689 8 10	38	34,512 7 1	81
February 2 - -	89,552 13 10	28,079 7 3	37	61,473 6 7	68
" 9 - -	82,232 11 8	43,467 14 5	30	38,764 17 3	63
" 16 - -	154,169 5 0	108,950 4 7	35	45,219 0 5	42
" 23 - -	134,733 2 1	29,486 19 3	41	105,246 2 10	53
March 2 - -	89,166 7 6	53,514 6 11	35	35,652 0 7	48
" 9 - -	75,448 19 1	38,691 11 0	44	36,757 8 1	69
" 16 - -	80,361 6 0	31,709 5 8	23	48,652 0 4	66
" 23 - -	190,619 2 7	156,232 7 3	24	34,386 15 4	41
" 30 - -	282,665 1 5	198,262 3 1	29	84,402 18 4	47
April 6 - -	—	—	—	—	—
" 13 - -	54,849 8 4	23,510 16 6	18	31,338 11 10	28
" 20 - -	103,516 6 5	42,690 0 4	42	60,826 6 1	84
" 27 - -	112,243 16 1	63,529 7 0	34	48,714 9 1	67
May 4 - -	127,234 1 9	59,601 7 3	28	67,632 14 6	46
" 11 - -	239,155 0 9	192,962 11 0	65	96,192 9 9	80
" 18 - -	—	—	—	—	—
" 25 - -	62,969 15 10	10,681 14 10	16	52,288 1 0	16
June 1 - -	184,148 3 4	77,653 3 5	75	106,494 19 11	124
" 8 - -	153,785 12 0	70,702 19 2	18	83,082 12 10	59
" 15 - -	125,685 16 5	57,225 17 10	53	68,459 18 7	81
" 22 - -	143,855 17 0	102,408 3 3	23	41,447 13 9	63
" 29 - -	194,260 17 1	137,481 15 8	60	56,779 1 5	53
July 6 - -	116,061 5 1	83,088 15 8	32	32,972 9 5	53
" 13 - -	186,908 13 7	80,174 5 6	28	106,734 8 1	63
" 20 - -	179,080 13 6	68,571 18 2	26	110,508 15 4	86
" 27 - -	297,756 6 11	191,272 4 4	50	106,484 2 7	116
August 3 - -	402,552 8 1	265,331 3 2	78	137,221 4 11	132
" 10 - -	616,425 9 10	398,754 5 6	110	217,671 4 4	206
" 17 - -	947,298 6 11	621,394 6 10	333	325,904 0 1	258
" 24 - -	293,120 3 0	71,820 0 0	5	221,300 3 0	4
" 31 - -	—	—	—	—	—
September 7 - -	600 0 0	600 0 0	1	—	—
" 14 - -	18,500 0 0	18,500 0 0	2	—	—
" 21 - -	2,400 0 0	2,400 0 0	1	—	—
Total - -	6,651,065 12 0	3,870,927 5 5	1,667	2,780,138 6 7	2,543

N.B.—In the return made to the Home Office "of the annual amount of business," &c. (see A. 18), a sum of 765,900*l.* of Exchequer bills delivered out to be exchanged for new bills, is included, which does not come within the terms of the above account.

C. 6.

Estimated number of affidavits as to calculations of amounts of either stock, cash, or interest left in the office of the Accountant-General, to be acted on by him during the year ending 1st October 1861:—

The Accountant-General has no means in his office of making this return. The office copies of the affidavits referred to are not retained by him, and although the dates of filing those made use of are entered in his books, in relation to the particular operation to which they refer, yet as one affidavit may relate to several transactions (of the same kind or otherwise) in the same cause or account, and so be entered in the books several times, it is impossible from the entries to estimate the number of affidavits left to be acted upon. Such affidavits are now frequently dispensed with by the Accountant-General, in cases where it can be done without risk of error.

C. 7.

Number of separate Suitors' accounts whereon the amount of stock, interest, and cash together does not exceed 1*l.*, and the total amount on such accounts, distinguishing the amounts of stock from interest and cash:—

Number of such accounts	-	-	351
Amount of stock	-	-	£4 0 5
Amount of interest and cash	-	-	£121 4 9

C. 8.

Number of separate Suitors' accounts whereon the amount of stock, interest, and cash together exceeds 1*l.* and does not exceed 5*l.*, and the total amount on such accounts, distinguishing the amount of stock from interest and cash:—

Number of such accounts	-	-	831
Amount of stock	-	-	£65 19 8
Amount of interest and cash	-	-	£2,451 17 7

No. XV.

PARTICULARS of the GROSS AMOUNT of CONSOLS bought and sold, the NUMBER of PURCHASES and SALES made in such Gross Amount by Mr. EDWARD MORTIMER on behalf of the COURT OF CHANCERY, the PRICES given and obtained, and the BANK AVERAGE PRICES on each Day during the Year ending 1st day of October 1861.

BOUGHT.					SOLD.			
Date.	Number of Purchases.	Amount of Stock.	Prices given.	Bank Average Price.	Number of Sales.	Amount of Stock.	Prices obtained.	Bank Average Price.
1860.								
October 30	-	37	£ 63,073	93	1	£ 149	93	93
" 31	-	18	33,390	93	5	739	93	93
November 2	-	19	17,261	93	5	1,194	93	92½
" 3	-	8	15,038	93	2	127	93	93
" 5	-	18	10,925	93½	1	17	93½	93
" 6	-	11	6,290	93½	-	-	-	-
" 7	-	7	7,619	93½	6	4,092	93	93½
" 8	-	12	21,984	93½	3	1,024	93½	93½
" 9	-	18	4,558	93½	1	517	93½	93½
" 10	-	19	20,006	93½	3	3,730	93½	93½
" 12	-	12	8,323	93½	6	2,032	93½	93½
" 13	-	10	2,171	93½	4	280	93½	93½
" 14	-	16	15,585	93	2	1,779	93	93
" 15	-	61	74,463	93½	6	1,060	93	93
" 16	-	8	6,652	93½	1	80	93½	93½
" 17	-	8	5,414	93½	9	8,256	93½	93½
" 19	-	66	17,570	93½	3	1,665	93½	93½
" 20	-	16	9,735	93½	7	3,053	93½	93½
" 21	-	15	11,696	93½	6	8,005	93½	93½
" 22	-	10	16,135	93½	7	1,932	93½	93½
" 23	-	20	31,429	93½	5	12,603	93½	93½
" 24	-	19	26,147	93½	18	7,390	93½	93½
" 26	-	14	22,326	93½	4	1,084	93½	93½
" 27	-	14	15,017	93½	7	7,562	93½	93½
" 28	-	25	70,367	93½	12	4,022	93½	93½
" 29	-	22	24,080	93½	7	1,663	93½	93½
" 30	-	21	33,566	93½	19	12,681	93½	93½
December 1	-	24	34,905	93½	17	17,618	93½	93½
" 3	-	23	80,116	93½	11	1,362	93½	93½
" 4	-	41	170,257	93½ 7½	16	6,671	93½	93½
" 5	-	54	103,457	94 & ½	41	38,525	94	94
" 6	-	2	24,161	94	-	-	-	-
1861.								
January 11	-	2	3,777	91½	1	481	91½	91½
" 12	-	11	6,578	91½	13	10,143	91½	91½
" 14	-	13	7,347	91½	6	709	91½	91½
" 15	-	6	2,248	91½	7	2,281	91½	91½
" 16	-	8	9,602	91½	18	4,644	91½	91½
" 17	-	12	20,558	91½	5	570	91½	91½

C. 9.

Total amount of cash, including interest, standing on the 1st October 1861 to the different accounts not dealt with for 10 years prior to that date, and the number of such accounts:—

Number of such accounts	-	-	4,560
Total amount of cash thereon, including interest	-	-	£535,112 1 4

C. 10.

Number and amount of cheques signed by the predecessors of the present Accountant-General and not delivered out:—

Number of such cheques	-	-	1,439
Total amount thereof	-	-	£28,170 5 4

Of these cheques only 409 have been re-signed by the present Accountant-General, so as to be ready for delivery if applied for. The remaining 1,030 are of no available value, as they would not be passed by the Bank until re-signed. It would be inconvenient to destroy them, as the Accountant-General, in order to draw them again if applied for, would have to go through the whole evidence originally supplied, in some cases, perhaps, to be obtained with the greatest difficulty; and as they afford information respecting the charges upon the accounts out of which the cheques are drawn, it is found to be advantageous to keep them.

Particulars of the Amount of Consols bought and sold, &c.—continued.

BOUGHT.					SOLD.			
Date.	Number of Purchases.	Amount of Stock.	Prices given.	Bank Average Price.	Number of Sales.	Amount of Stock.	Prices obtained.	Bank Average Price.
1861.		£	£	£		£	£	£
January 18	18	12,513	91½	91½	7	1,791	91½	91½
" 19	23	55,159	91½	91½	26	11,215	91½	91½
" 21	16	4,984	91½	91½	6	540	91½	91½
" 22	10	36,975	91½	91½	8	7,968	91½	91½
" 23	17	16,760	91½	91½	16	5,318	91½	91½
" 24	10	14,491	91½	91½	6	4,537	91½	91½
" 25	7	9,496	91½	91½	6	471	91½	91½
" 26	6	1,869	91½	91½	14	46,516	91½	91½
" 28	13	14,308	91½	91½	8	759	91½	91½
" 29	5	1,076	91½	91½	3	1,571	91½	91½
" 30	5	1,585	91½	91½	21	4,875	91½	91½
" 31	63	8,621	91½	91½	6	266	91½	91½
February 1	20	19,155	92	91½	8	3,286	92	91½
" 2	69	12,174	92½	92½	21	9,404	92½	92½
" 4	41	62,348	92½	92½	7	4,455	92½	92½
" 5	6	5,452	91½	91½	5	8,610	91½	91½
" 6	8	12,536	91½	91½	10	12,012	91½	91½
" 7	66	5,569	91½ 92	91½	5	869	91½	97½
" 8	54	14,404	92	91½	8	28,296	91½	91½
" 9	43	23,162	92½ 92	91½	12	12,291	91½	91½
" 11	73	8,650	92	91½	4	1,109	92	91½
" 12	53	47,410	92	91½	2	113	92	91½
" 13	115	7,132	92	92	7	2,358	92	92
" 14	4	5,302	91½	91½	3	716	91½	91½
" 15	24	34,509	91½	91½	5	2,098	91½	91½
" 16	116	1,445	91½	91½	13	59,239	91½	91½
" 18	15	17,271	91½	91½	4	30,886	91½	91½
" 19	39	23,122	91½ 92	91½	5	737	91½	91½
" 20	35	7,683	91½	91½	15	7,690	91½	91½
" 21	60	12,128	91½	91½	7	2,679	91½	91½
" 22	78	10,303	91½	91½	16	15,157	91½	91½
" 23	17	42,762	91½	91½	—	—	—	—
" 25	59	31,172	91½	91½	5	1,296	91½	91½
" 26	60	3,138	91½	91½	11	3,786	91½	91½
" 27	54	11,030	91½	91½	8	1,264	91½	91½
" 28	70	25,023	91½	91½	10	3,964	91½	91½
March 1	55	12,839	91½	91½	11	1,254	91½	91½
" 2	13	38,982	91½	91½	1	1,554	91½	91½
" 4	8	10,316	91½	91½	10	16,766	91½	91½
" 5	54	11,888	91½	91½	7	3,935	91½	91½
" 6	41	11,229	91½	91½	6	3,773	91½	91½
" 7	54	11,105	91½	91½	13	11,527	91½	91½
" 8	2	2,946	91½	91½	18	9,389	91½	91½
" 9	92	11,873	91½	91½	7	3,133	91½	91½
" 11	39	10,149	91½	91½	5	4,795	91½	91½
" 12	43	6,123	91½	91½	17	16,033	91½	91½
" 13	89	20,049	91½	91½	3	908	92	91½
" 14	38	10,276	92	91½	8	3,108	92	92
" 15	13	32,415	92½ 92	92	8	1,600	92	92
" 16	9	5,644	92½	92	2	6,818	92	92
" 18	7	16,905	92	92	10	11,254	92	92
" 19	11	25,934	92	92	9	7,132	92	92
" 20	17	27,692	92	92	8	10,117	91½	92
" 21	5	1,462	92	91½	6	10,127	92½ 92	91½
" 22	7	15,328	92	91½	30	64,842	91½ 92 3 4	91½
" 23	20	19,439	92	91½	1	328	91½	91½
" 25	—	—	—	—	6	2,565	91½	91½
April 9	28	41,759	91½	91½	22	28,773	91½	91½
" 10	12	33,870	91½	91½	10	1,670	91½	91½
" 11	7	6,029	91½	91½	10	11,614	91½	91½
" 12	6	10,345	91½	91½	13	10,350	91½	91½
" 13	22	12,392	91½	91½	5	2,169	91½	91½
" 15	7	1,586	91½	91½	2	5,456	91½	91½
" 16	8	4,883	91½	91½	16	13,839	91½	91½
" 17	14	24,532	91½	91½	5	551	92	91½
" 18	5	10,620	92	91½	8	2,483	92	92
" 19	2	1,638	92½	91½	9	3,052	91½	91½
" 20	12	2,782	92	91½	6	2,815	92	91½
" 22	31	10,011	92	91½	9	3,240	92	91½
" 23	14	13,093	92	91½	—	—	—	—
" 24	100	11,200	92	91½	16	16,650	92	92
" 25	35	7,670	92	92	2	115	92	92
" 26	63	5,453	92½	91½	6	9,556	91½	91½
" 27	10	22,260	91½	91½	13	44,455	91½	91½
" 29	5	3,797	91½	91½	5	973	91½	91½
" 30	4	1,637	91½	91½	7	8,188	91½	91½
" 31	14	20,382	91½	91½	12	2,002	92	91½
May 2	20	60,449	92	91½	4	4,510	91½	91½
" 3	6	3,305	91½	91½	23	42,018	91½	91½
" 4	20	14,252	91½	91½	6	770	91½	91½
" 6	4	9,827	91½	91½	18	16,125	91½	91½
" 7	20	67,192	91½	91½	1	5,664	91½	91½
" 8	—	—	—	—	1	332	91½	91½
" 9	1	76,262	91½	91½	—	—	—	—

Particulars of the Amount of Consols bought and sold, &c.—*continued.*

BOUGHT.					SOLD.			
Date.	Number of Purchases.	Amount of Stock.	Prices given.	Bank Average Price.	Number of Sales.	Amount of Stock.	Prices obtained.	Bank Average Price.
1861.		£				£	£	£
May 22	-	19	17,229	91 $\frac{3}{4}$	12	46,801	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 23	-	18	13,019	91 $\frac{3}{4}$	15	13,209	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 24	-	11	10,680	91 $\frac{3}{4}$	12	4,947	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 25	-	19	22,815	91 $\frac{3}{4}$	17	23,800	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 27	-	14	12,344	91 $\frac{3}{4}$	2	1,249	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 28	-	11	7,515	91 $\frac{3}{4}$	5	4,101	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 29	-	44	19,472	91 $\frac{3}{4}$	35	26,627	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 30	-	62	41,684	91 $\frac{3}{4}$	17	9,217	91 $\frac{3}{4}$	91 $\frac{3}{4}$
" 31	-	2	1,717	90 $\frac{1}{2}$	9	3,838	90 $\frac{1}{2}$	91 $\frac{3}{4}$
			ex div.	cum div.			ex div.	cum div.
June 1	-	5	4,640	90 $\frac{3}{4}$	16	40,041	90 $\frac{3}{4}$	91 $\frac{3}{4}$
			ex div.	cum div.			ex div.	cum div.
" 3	-	5	3,024	90 $\frac{3}{4}$	4	454	90 $\frac{3}{4}$	90 $\frac{3}{4}$
" 4	-	5	3,549	90 $\frac{3}{4}$	6	273	90 $\frac{3}{4}$	90 $\frac{3}{4}$
" 5	-	3	1,455	90 $\frac{3}{4}$	6	731	90 $\frac{3}{4}$	90 $\frac{3}{4}$
" 6	-	4	11,476	90 & $\frac{1}{8}$	4	1,731	90	89 $\frac{7}{8}$
" 7	-	6	5,312	90	16	6,662	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 8	-	7	19,646	89 $\frac{7}{8}$	12	26,877	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 10	-	2	1,823	89 $\frac{7}{8}$	4	1,057	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 11	-	7	2,754	89 $\frac{7}{8}$	7	3,161	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 12	-	12	15,066	89 $\frac{7}{8}$	14	7,709	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 13	-	3	3,412	90	5	806	90	89 $\frac{7}{8}$
" 14	-	4	2,849	89 $\frac{7}{8}$	9	7,687	89 $\frac{7}{8}$	90
" 15	-	9	8,750	90 $\frac{1}{2}$	14	9,313	90	90
" 17	-	5	3,125	90 $\frac{1}{2}$	3	2,293	90	90
" 18	-	4	5,126	90	12	5,184	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 19	-	6	4,191	89 $\frac{7}{8}$	12	12,863	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 20	-	3	2,216	89 $\frac{7}{8}$	7	2,949	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 21	-	4	728	90	3	1,019	89 $\frac{7}{8}$	89 $\frac{7}{8}$
" 22	-	13	1,664	89 $\frac{3}{4}$	13	14,368	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 24	-	12	9,810	89 $\frac{3}{4}$	3	621	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 25	-	2	872	89 $\frac{1}{2}$	8	24,191	89 $\frac{1}{2}$	89 $\frac{1}{2}$
" 26	-	11	10,697	89 $\frac{3}{4}$	11	5,459	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 27	-	5	3,014	89 $\frac{3}{4}$	7	5,163	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 28	-	10	1,130	89 $\frac{3}{4}$	8	1,728	89 $\frac{3}{4}$	88 $\frac{3}{4}$
" 29	-	13	6,375	89 $\frac{3}{4}$	9	4,388	89 $\frac{3}{4}$	89 $\frac{3}{4}$
July 1	-	4	1,193	89 $\frac{1}{2}$	4	1,404	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 2	-	11	10,006	89 $\frac{3}{4}$	8	6,140	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 3	-	8	7,270	89 $\frac{3}{4}$	9	9,362	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 4	-	14	15,406	89 $\frac{3}{4}$	8	2,356	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 5	-	7	22,266	89 $\frac{3}{4}$	7	1,789	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 6	-	3	778	89 $\frac{3}{4}$	13	31,544	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 8	-	6	5,242	89 $\frac{3}{4}$	3	1,880	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 9	-	9	13,868	89 $\frac{3}{4}$	12	13,786	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 10	-	1	183	89 $\frac{3}{4}$	1	1,926	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 11	-	2	1,922	89 $\frac{3}{4}$	8	12,860	89 $\frac{3}{4}$	90
" 12	-	8	15,977	90 $\frac{1}{2}$	4	5,046	90	90 $\frac{1}{2}$
" 13	-	11	12,830	90 $\frac{1}{2}$	18	30,260	90	90 $\frac{1}{2}$
" 15	-	3	5,225	90	10	14,993	90	90
" 16	-	51	1,776	90	15	35,297	90	90
" 17	-	63	8,827	90	28	19,354	89 $\frac{7}{8}$	90
" 18	-	51	5,167	90	6	1,278	90	89 $\frac{7}{8}$
" 19	-	49	10,811	89 $\frac{7}{8}$	12	8,079	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 20	-	171	17,481	89 $\frac{3}{4}$	22	28,575	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 22	-	91	7,645	89 $\frac{3}{4}$	12	4,792	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 23	-	273	9,167	89 $\frac{3}{4}$	23	7,029	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 24	-	54	8,051	89 $\frac{3}{4}$	30	26,693	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 25	-	123	20,666	90	7	14,881	89 $\frac{3}{4}$	90
" 26	-	111	7,426	89 $\frac{7}{8}$ 90	11	23,531	89 $\frac{3}{4}$	89 $\frac{7}{8}$
" 27	-	192	27,481	90	28	34,824	89 $\frac{3}{4}$	89 $\frac{3}{4}$
" 29	-	194	16,679	90	16	15,655	90	90
" 30	-	18	24,356	90 $\frac{1}{2}$	22	25,222	90	90
" 31	-	39	10,272	90 $\frac{1}{2}$	28	15,578	90	90
August 1	-	150	30,281	90 $\frac{1}{2}$	13	11,684	90	90
" 2	-	97	14,379	90 $\frac{1}{2}$	17	24,665	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 3	-	41	10,967	90 $\frac{1}{2}$	46	38,743	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 5	-	122	12,358	90 & 90 $\frac{1}{2}$	19	16,656	90	90
" 6	-	75	27,138	90 $\frac{1}{2}$	25	19,374	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 7	-	31	33,107	90 $\frac{1}{2}$	51	66,804	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 8	-	75	163,017	90 $\frac{1}{2}$	66	103,516	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 9	-	81	119,180	90 $\frac{1}{2}$	113	109,898	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 10	-	5	393	90 $\frac{1}{2}$	23	16,737	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 13	-	-	-	-	3	1,113	90 $\frac{1}{2}$	90 $\frac{1}{2}$
" 17	-	-	-	-	4	221,300	90 $\frac{1}{2}$	90 $\frac{1}{2}$
Total -	-	5,783	3,432,333	-	2,100	2,247,351	-	-

E. MORTIMER.

In making out the above account, fractions of a pound (as in a similar statement made in 1853) have been disregarded. Closer exactness in ascertaining the daily amounts of stock purchased and sold would have occasioned a great additional trouble, as Mr. Mortimer's stock book is not kept with a view of making such a statement, but simply as a memorandum of the daily total of commissions executed by him for the Accountant-General.

No. XVI.

REPORT OF THE SUB-COMMITTEE APPOINTED 13 JUNE 1861.

TO THE CHANCERY FUNDS COMMISSIONERS.

1. We, the undersigned members of the Sub-Committee appointed on 13th June 1861, to consider "with reference to the interests of the suitors and the revenues of the Court,—

1st. The propriety of any alteration in the existing mode of effecting purchases and sales of stock, and

2nd. The propriety of any alteration in the existing mode of dealing with the cash in Court, not required by the suitors to be invested,"

beg to report, that the members of the Sub-Committee have held several meetings, and have considered the matters referred to them; but the members of the Sub-Committee not being unanimous in the conclusions they have come to, we the undersigned members thereof have agreed on making the following separate report on the matters so referred.

2. The conclusions we have come to on the second branch of the subject are so important, and if adopted, will have so much effect on the first branch of the subject, that it has been considered desirable to give precedence to the second branch of the subject in making this report.

PART I.

3. We, therefore, proceed, in the first instance, to consider the propriety of altering the existing mode of dealing with cash in court not required by the suitors to be invested.

4. When cash is paid into Court for the purpose of being eventually distributed under its direction, it must, until the direction of the Court be given, either remain as cash "dead and unemployed," and unproductive of interest to the person to whom it may be ultimately adjudged to belong, or it may, on an application to the Judge by any of the persons claiming to be interested therein, be ordered to be invested in consols (that being the stock ordinarily selected by the Court for such investments); but in that case the costs of the application, amounting to from 3*l.* to 10*l.*, are usually directed to be paid out of the cash to be invested,* and the suitor, who may establish his claim to the stock purchased, has also to submit to any loss that may be sustained by a depreciation in the value of the stock at the time of realization.

5. The present mode of dealing with the cash in Court not required by the suitors to be invested is as follows:—

1st. To keep at the Bank of England a balance of this cash sufficient to answer the current demands of the suitors, and at the same time to remunerate the Bank for keeping a duplicate of the suitors' accounts causewise, and for paying and receiving their cash and keeping an account thereof with the Chancery Accountant-General.†

2nd. To invest, for the benefit of the Court, the residue of this cash on an account now usually designated as Fund A.‡

6. Such investments commenced in 1739, and between that period and 1838 ten Acts were passed, authorizing the investment on Fund A. of the amounts of the suitors' cash therein specified, being part of the cash lying "dead and unemployed" in the Bank of England. In 1838 was passed the Act of 1 & 2 Vict. c. 54, by which the Lord Chancellor was empowered from time to time, by order, to direct the investment in Government securities, of such portions of the suitors' cash lying dead and unemployed in the Bank of England as he might deem expedient.§ Large investments have accordingly been made in Fund A., at different periods, under the authority of the last-mentioned Act; and sales have been, from time

to time, made of portions of the stock on Fund A., whenever the balance of Chancery cash at the Bank of England required replenishing.

7. Of the total amounts of suitors' cash in Court on the 1st of October 1861, amounting to 2,702,542*l.* 11*s.* 11*d.*, there was then remaining invested on this Fund A., 2,264,744*l.* 1*s.* 10*d.*, and the stock representing such invested cash amounted to 2,606,225*l.* 7*s.* 8*d.** so that the average price at which it was purchased, was about 86*g*ths.

8. The dividends of the stock so purchased on Fund A., in pursuance of each of such special Acts, were thereby charged with specific payments, chiefly for the purpose of erecting offices of the Court or for salaries to its officers; and such dividends have also, by subsequent Acts, been charged with other specific payments for the same or like purposes. These charges have never absorbed the whole of these dividends, and by the Acts passed anterior to the Act of 9 Geo. 3. c. 19., the surplus of such dividends was directed to form part of the common and general cash of the suitors. This Act of 9 Geo. 3. c. 19., directed the surplus of these dividends to be invested, and these investments originated Fund B.† This Act also authorized the whole, or any part, of the stock on both Funds A. and B. to be sold whenever the moneys invested therein should be wanted to answer the demands of the suitors; a similar provision is contained in subsequent Acts, as well as in the said Act of 1 & 2 Vict. c. 54, s. 5, appended hereto. Thus, this latter Fund (B.) which has arisen from the investment of the surplus dividends of the stock on Fund A., (suitors' cash invested by the Court), is the Guarantee Fund which secures the suitors against any loss which may ensue from the investment of their cash for the profit of the Court.

9. All further accretions to Fund B. ceased in 1852 by the operation of the Act 15 & 16 Vict. c. 87. s. 53., which directed the surplus of the incomes of Funds A. and B., after defraying the charges specifically imposed thereon, to be carried over to, and to form part of, the "Suitors' Fee Fund." This fund is the Income Fund referred to in the report on the concentration of the courts of justice as "Fund C.," by which designation it will be hereafter cited.

10. Fund B. amounts to 1,291,629*l.* 10*s.* 5*d.* stock‡ and is one of the funds recommended to be appropriated for the erection of the new courts of justice; and in the bill for this purpose (as introduced into Parliament), there was a provision that, "if the stock purchased out of the general cash balance of the suitors (Fund A.) is at any time insufficient to satisfy the claims of the suitors thereon, such deficiency shall, to the extent to which the "surplus interest fund (Fund B.) would have been available, be made good out of the Consolidated Fund."

11. The income of the stock on Funds A. and B., and the rent of that portion of the late masters' offices let to the Patent Commissioners, are paid to the credit of an income account, generally, though not accurately, designated "the Suitors' Fund" (A. and B.), and after the charges specially imposed thereon§ have been provided for, the surplus is carried over to the Suitors' Fee Fund (Fund C.), to which income fund all the fees collected from the suitors are paid; on this Fund C. are imposed such of the compensations in respect of reduced or abolished offices, salaries of the officers, rents of hired buildings, and other miscellaneous

* The amounts of Cash and Stock were as follows:—

	£	s. d.
Cash in Court on 1st October 1861	-	2,702,542 11 11
Cash invested in Fund A.	-	2,264,744 1 10
Balance of cash in the Bank	-	437,798 10 1

Fund A. on 1st October 1861 consisted of Stock:—

1. Consols	-	1,202,064 16 11
2. Reduced Annuities	-	1,404,160 10 9
		2,606,225 7 8

† The exact title of this account is "Account of Securities purchased with Surplus Interest arising from Securities carried to Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery;" and in the Courts of Justice Money Bill of 1862 is termed "Suitors' Surplus Interest Fund."

‡ Fund B. consists of the following Stock:—

	£	s. d.
Consols	-	570,700 16 1
Reduced Annuities	-	720,904 8 5
New 3 per cent. Annuities	-	24 6 0
East India Stock	-	0 4 11
		1,291,629 10 5

§ These charges consist of salaries, pensions, and compensations to the officers, and other expenses of the Court.

* This expense is now often avoided, as no money can be paid into Court in a suit without an order for that purpose being first obtained, and this order usually contains a direction for its investment. If money should be hereafter authorized to be paid into Court without an order, and an investment in stock should be desired, the expense of obtaining an order for that purpose will still be incurred.

† It does not appear that the minimum amount of this balance has been fixed, but it has been currently reported that there is an understanding that it is not to be at any time below 300,000*l.* See Mr. Parkinson's Evidence on the First Report on Fees in 1848 (House of Commons Paper 158, Answer 712); and Mr. Johnson's Evidence in the Report on the Concentration of the Courts of Justice, Answer 1,666.

‡ The exact title of this account is "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery;" but it may be briefly termed "The Suitors' Cash Fund."

§ A copy of this Act of 1 & 2 Vict. c. 54. (1838) will be found in Paper No. 1 in Appendix hereto.

expenses of the Court and its offices, as are not charged on the Sutors' Fund.*

12. This Sutors' Fund, to which the incomes of Funds A. and B. are placed, is an income fund, and the surplus balance thereon on the 1st of October 1861 (the day of annually balancing this account), amounted to 18,820*l.* 7*s.* 6*d.*, and on the former fund (Fund C.) the surplus balance on the 24th of November 1861 (the day of annually balancing that account) was 90,318*l.* 2*s.* 14*d.*, making together (exclusive of a dividend of 2,902*l.* 6*s.* 10*d.* due at that date to Fund C.) 109,138*l.* 10*s.* 5*d.*

13. In the result, therefore, it appears that for a long period there has been in Court a large amount of sutors' cash not required by them to be invested; and that from the investment of such cash by the Court, under the authority of Parliament, considerable profit has accrued to the Court.

14. Two causes have operated to prevent investments of sutors' cash on their behalf,—1st, Indifference on the part of the person paying in the money, or on the part of those who are aware of the money having been paid in; and, 2ndly, A reluctance to incur the risk of loss from a depreciation in the market value of stock.

15. Money is usually paid into Court by persons who are not beneficially interested in the subsequent distribution of it, and are indifferent as to how it is dealt with, so long as they get a valid discharge; and those who afterwards establish their title to the money so paid in, are frequently at the time unaware of its being paid in, or ignorant of their title to it.

16. Dissatisfaction is not unfrequently felt by persons who establish their title to cash in Court, when they find that the money which belongs to them has been lying "idle" and unproductive," so far as their interests are concerned; and this dissatisfaction is not likely to be diminished when they learn that the Court, by the employment of their money, has made a large profit in which they are not permitted to share.

17. There is less reason for complaint where the non-investment of sutors' cash on their behalf, is owing to an unwillingness to run the risk of loss. Indeed, it has been said that inasmuch as they have an option of applying to have the money invested, and have exercised their own choice in the matter, they have no reason to complain, and are as well off as persons who are not sutors. But, in point of fact, in ordinary cases, when money is deposited in the hands of a stakeholder to abide the completion of a purchase or the decision of a legal question it is not usual to invest it. The money is generally left on deposit at one of the Joint Stock Banks, and, except for the purposes of speculation, investments in stock are rarely made when it is known that the investment can only last for a short period, and that the fund must be realized when that period is determined, whatever may be the price of stock at the time.

18. So large a part of the moneys in the books of the Accountant-General is held to await decisions of the Court, and not upon continuing trusts (as to one for life and then over), that we think it desirable to establish a Deposit Account for sutors in the Court of Chancery, that is to say, in addition to securing to the sutors (as at present) by Funds A. and B. the repayment of their cash in Court not required by them to be invested, to allow them a moderate rate of interest upon such cash, without depriving them of the right to require the investment thereof at any time on their own behalf, and at their own risk. This alteration would confer a very great boon on the sutors and would moreover relieve them from the effect of the indifference or negligence of persons over whom they have no control.

19. It is also important to observe, that independently of the direct pecuniary benefit to the sutors, pointed out in the last preceding paragraph, much of the labour and complication which arise from the conversion of the separate amounts of cash of sutors into stock, and the re-conversion of stock into cash, would be saved by the establishment of a Cash Deposit Account; while the difficulty of estimating the amount of the cash to be dealt with by the orders made by the Court for its distribution, the impediments to the progress of business occasioned by the uncertainty of such estimates, and the inconvenience occasioned by deficiencies arising from fluctuations in the public funds, would be altogether avoided.†

20. We think that parliamentary deposits should be excluded from the operation of the proposed scheme, inasmuch as they are not, properly speaking, sutors' moneys, and the foregoing observations do not apply to them.*

21. Assuming the principle of a Deposit Account to be adopted, we now proceed to indicate the chief matters of detail that would require attention. We understand that rule 3 of the 41st of the Chancery Consolidated Orders, which directs the investment in stock, without any order or request, of money paid into Court under the Trustee Relief Act, and of the dividends of such Stock, and of the Stock transferred into Court under the same Act, and rule 11 of the 1st of the same Orders, as to the investment of dividends of stock representing legacies paid in under the Infant Legacy Act, have been found in many cases to operate disadvantageously to the sutors, and cause much trouble and inconvenience to the officers of the Court. We, therefore, recommend that these rules be abrogated, and that the moneys thereby directed to be invested in stock, be treated as "Cash on Deposit." If there is any fear that moneys would be treated as cash on deposit which ought to be invested, a rule might be made that when the amount to be paid in exceeds a given sum, the Judge in chambers should give directions in each case how the same is to be dealt with by the Accountant-General.

22. The Incorporated Law Society, as well as the Metropolitan and Provincial Law Association, have suggested that the rate of interest to be allowed to sutors on "Cash on Deposit" should be 2*l.* per centum per annum. We agree with them that this rate would meet the fair claims of the sutors, and, at the same time, adequately maintain the revenues of the Court for the payment of its expenses. If the income realized by the Court should hereafter be found more than sufficient for the expenses charged upon it, the Lord Chancellor might be empowered to increase the rate of interest.

23. We suggest that in order to facilitate calculations no interest should be computed on any deposit of less amount than 10*l.*, or some multiple thereof, nor for any shorter period than three calendar months.‡ The time for the computation of interest should exclude all broken periods of a month at the commencement and end of the period of deposit; but the Lord Chancellor might be authorized to diminish the period of three months, and alter the minimum amount carrying interest.

24. We also think that on every amount entitled to interest on the 1st of October in every year, interest calculated to that day should be credited to each suitor's account, and be added to the principal.

25. We think that all cash, with the exception of parliamentary deposits before referred to, which may hereafter be paid into Court, ought to be treated as cash on deposit, without any requisition for the purpose.

26. We see no reason for excluding cash now in Court from the operation of the Deposit Account; but inasmuch as a portion of this cash is standing on accounts not dealt with for some years, and may never be applied for, and as such part thereof as has been directed to be paid out or dealt with will be difficult to ascertain, we think that before any cash now in Court is placed on the proposed Deposit Account, a requisition to the Accountant-General should be made by or on behalf of some person interested therein.‡

27. Formerly, the lowest amount of cash invested by the Accountant-General was 40*l.*; since 1852 it has been 3*l.* 10*s.* But inasmuch as the time occupied in preparing the requisite documents and in checking the calculations is the same, whether the amount invested be large or small, we suggest that 100*l.* be fixed as the minimum amount to be invested. Unless the parties expressly desire an investment of any sum under that amount, the same should be treated as "Cash on Deposit."

28. We do not think that there is any reason to apprehend that money would be withdrawn from the deposit account, and invested when the price of stock is low. Apart from the difficulty of determining what is a safe time for investing when the fund invested must be realized under the conditions referred to in the 17th paragraph of our report, we believe that a sufficient check will be found,—1st, in the fact that the opposition of any one person in-

Regulation
No. 4,
Appendix 2.

Rule No. 2
and Regula-
tion No. 3,
Appendix 2.

Rule No. 8,
Appendix 2.

Rule No. 1,
Appendix 2.

Regulation
No. 2,
Appendix 2.

Regulation
No. 6,
Appendix 2.

* Part of the salary of the Accountant-General is paid out of this Sutors' Fund (A. and B.), and the remainder out of the Sutors' Fee Fund (C.), and the salaries of some of his clerks are paid in the same manner out of the two funds.

† An instance of this inconvenience, which is by no means a solitary one, will be found in the report of a case of *Tompsett v. Wickens*, 3 Sm. and Giff. 171. In a foreclosure suit certain mortgaged premises were sold, the proceeds were paid into Court, and the purchase money, which was sufficient to pay off the mortgage, was invested in consols. When the money was required, the investment, owing to a fall in stock, proved insufficient, and the deficiency had to be made good in another suit.

* These deposits are paid into Court under 9 & 10 Vict. c. 20, directing subscribers to works or undertakings to be effected under the authority of Parliament, to pay into Court a deposit under the Standing Orders of Parliament.

† *Vide* Post Office Savings' Bank Act of 24 Vict. c. 14, s. 7.

‡ Of the two and three quarter millions of cash now in Court, it is believed that at least half a million stands on accounts not dealt with for five years, and probably will not be placed on deposit. In 1850 a quarter of a million of cash had been on such accounts for ten years; but this did not include dividends of stock in Court, which it was then stated were of an equal amount. (Mr. Rogers' Memorandum, par. 43.)

interested in the fund would prevent an investment; 2nd, in a provision which, we think, might properly be introduced, that every order for investment should state at whose request it was made;* and 3rdly, in the discretion of the Judge, who would be sure to disallow speculative investments.

29. With respect to the mode of securing the repayment to the suitors of their "Cash on Deposit," we propose that the provisions of the Act 1 & 2 Vict. c. 54., appended hereto, shall continue in full operation, so that the repayment in full of the suitors' cash in Court, whether on deposit or not, will, by the operation of the provision contained in the 5th section of the same Act of 1 & 2 Vict. c. 54., be guaranteed by the present amount of stock on Funds A. and B., and the additional investments that may be made on Fund A. out of such cash on deposit. The present amount on these Funds A. and B., available as a security for the repayment of the suitors' moneys in Court invested in Fund A., amounting to 2,264,744*l.* 1*s.* 10*d.* cash, is 3,897,854*l.* 18*s.* 1*d.* stock.

30. We have now to consider how the interest on "Cash on Deposit" would have to be provided, and the probable effect which the deposit account would have on the revenues of the Court.

31. We propose that the interest on suitors' Cash on Deposit should be charged upon the dividends of the stocks of Fund A. These dividends now amount to 70,000*l.* a year.

32. The amount of suitors' cash now in Court may be taken at 2½ millions.† Of this sum it may be estimated that about 1½ millions would probably be placed on the deposit account; if so, the interest thereon payable to suitors at the rate of 2*l.* per cent. per annum will amount to 30,000*l.* This sum would represent the extent of the gross additional charge to be placed on the revenues of the Court, if the proposed measure of allowing to suitors a portion of the interest derived from the investment of their cash deposits should be adopted. On the other hand, we think that for the reasons indicated in par. 19 investments by the suitors at their own risk would be, to a great extent, discontinued, and that a considerable amount would be placed on the deposit account in lieu of being invested on the suitors' behalf; every additional million of cash, which in the absence of a deposit account would have been required by suitors to be invested on their own behalf, would, if placed upon the deposit account, yield an addition of about 12,500*l.* a year to the revenues of the Court; so that as soon as the additional amount which may be so placed amounts to 2½ millions, the additional income to be derived from surplus interest would more than cover the whole charge for interest payable to suitors at the proposed rate of 2*l.* per cent.

33. Although we see no reason for apprehending that the sum to be appropriated out of the revenues of the Court for the payment of interest to suitors would not, in the course of a short time, be fully compensated by the additional income which would accrue from the investment by the Court of the accretions to the deposit account mentioned in the latter part of the preceding paragraph, it may nevertheless be useful to point out that the excess of Income of the Suitors' Fee Fund beyond expenditure amounted in 1861 to upwards of 5,000*l.*, and will increase as Compensations fall in, and that there is a surplus balance of 90,318*l.* on the Suitors' Fee Fund (C.) applicable to make good any temporary deficiency that may arise in the income of that fund; and there is also an unclaimed balance of about 15,000*l.* on the Appeal Deposit Fund (see Mr. Rogers' Memorandum, par. 46) available for the same purpose. Moreover, the suggestion made in the Report of the Committee on Fees in 1849 (see Mr. Rogers' Memorandum, par. 69), namely, that a small per-centage should be imposed on all funds coming into Court, might be adopted. We repeat, however, that we believe that the deficiency, if any, would only be temporary, and that the sufficiency of the income of the Court would very soon be restored. In order to economise the balances on the Court funds, and so facilitate the working of a Deposit Account, and also in order to render the Court accounts more simple and intelligible we think that the several Court accounts should be fused into one account as suggested by Mr. Rogers in his Paper appended hereto (Appendix 3).

34. We have appended to our report (Appendix No. 2) certain Rules and Regulations, framed by Mr. Rogers. These Rules and Regulations will enable the scheme to be

more thoroughly scrutinized, and if the principle of our conclusions be adopted, will, we think, be found most useful in carrying it out.

PART II.

36. We now proceed with the other branch of the subject referred to the sub-committee, viz. :—

"The propriety of any alteration in the existing mode of effecting purchases and sales of stock."

37. The course pursued in effecting purchases and sales of stock on behalf of suitors is fully detailed in Mr. Rogers' "Memorandum," paragraphs 19 to 22 and 32 to 34, and also in the Accountant-General's Paper, No. 3, pages 79 to 82, and in the evidence of Mr. Mortimer in the Report of the Committee of House of Commons on Fees in 1848, and in that of Mr. Parkinson before the same Committee (answers 636 to 691).

38. The following, it is believed, will be found a concise account of the course pursued in making such sales and purchases.

1. As to Purchases of Stock and Securities.

39. Moneys paid into Court are not invested without an order obtained for the purpose by the parties interested, except moneys paid into Court under the Infants' Legacy Act and the Trustee Relief Act.

40. The order for investment, and a request for the purpose, are left at the Accountant-General's office, and the investment is thereupon considered as bespoken.

41. The Accountant-General's broker attends every morning at the several divisions of the Accountant-General's office, and receives his directions for the several sales and purchases bespoken the day before, when the title of each account and the amount of cash to be invested, or of stock to be bought, or of stock to be sold, or of cash to be raised, are given to him.

42. The purchases and sales for which directions are taken by the broker on Monday, Tuesday, and Wednesday, are completed on the Friday following, and those taken on the other three days on the Tuesday following. In the evening of each day the broker sends to the Accountant-General's office a note containing the particulars of each purchase and sale. In the case of purchase a separate draft is drawn for each sum payable to the broker, "on his causing" the amount of stock therein mentioned to be placed to some particular account, not necessarily that on which the draft is drawn, but depending upon the order directing the purchase to be made. And in the case of each sale a direction to place cash arising therefrom to the proper account is filled up ready for the Accountant-General's signature. The Accountant-General attends usually on every Tuesday and Friday, during the period his office is open, at the Transfer Office of the Bank of England, and of other public companies, to complete the purchases and sales, by accepting and transferring the several amounts of stocks purchased or sold during each of the preceding three days.* A list† containing the several accounts to which the stock bought is to be placed, and the amounts thereof, and the directions to place the cash arising from each sale to the proper account, are signed by the Accountant-General and sent to the Chancery office in the Bank, and in the evening the various stock receipts and sale certificates are sent to the Accountant-General's office.

43. When the investment is completed an office copy of the Accountant-General's certificate that the investment has been made may be obtained from the Report office. The period occupied in making an investment beyond the period consumed in obtaining the order authorizing it is usually one week, that is, from the day of bespeaking the investment to the day of obtaining the office copy of the certificate of investment, and the solicitor's fees and charges in respect of such investment are 7*s.* 8*d.*‡

* The suggestion contained in Mr. Rogers' Paper appended hereto (No. 4, Paragraphs 4 to 14), appear to us important.

† The Accountant-General in his Paper referred to in Paragraph 37, states that there is a separate list for each division of the office. They are prepared from the broker's contract notes, and are checked with the stock books at the Bank at the time the Accountant-General signs the acceptance of the stock purchased, and when all the amounts have been accepted the lists are signed. The direction to place the cash arising from each sale to the proper account commences with a notification of the amount and description of stock sold, to enable the Bank Chancery office to debit the account therewith. As the Accountant-General signs the transfer of the stock sold and the receipt for the money arising from the sale, he signs the direction or notification.

‡ The Accountant-General in the same Paper states that the longest time, so far as regards the Accountant-General's office, is six days (from

* Since the decision in *Tompsett v. Wickens*, 3 Smale and Giffard, 171, this practice has prevailed with respect to orders for investment of moneys produced by sale of estates.

† The amount of suitors' cash in Court on the 1st October 1861 was 2,702,747*l.* 11*s.* 11*d.*

2. As to Sales of Stock and Securities.

44. The authority for making any sale of stock in Court is an order made by one of the Judges of the Court, on the application of parties interested, and drawn up and passed by any one of the eleven Registrars of the Court.

45. This order is taken by the solicitor from the Registrar's office, where it remains until called for, to one of the junior clerks to the Registrars, from whom is bespoken a certificate (usually termed a "direction") for sale.

46. The "direction" and order are taken by the solicitor from the Registrar's office, where they remain until called for, to the Accountant-General's office. The sale is thereupon made in the manner described by Mr. Mortimer and Mr. Parkinson in their evidence before the Committee of the House of Commons on Fees in 1848 (pages 46, 55, and 138). The Registrar's directions are retained by the Bank, as the authority for permitting the sale. Afterwards a certificate of the sale is prepared and signed by the Accountant-General, and is filed by him in the Report office, whence an office copy may be obtained if required. The time occupied in effecting a sale from the day of bespeaking the Registrar's "direction" to the day of obtaining an office copy of the certificate of such sale or transfer is not less than one week, and generally more, and the solicitor's fees in respect of such sale are 13s. 4d.*

47. The price at which suitors' stock is bought and sold is furnished by the Accountant-General's certificate of the particulars of such sale or purchase, but an office copy of this certificate is not usually obtainable until a week at least after the sale or purchase has been completed; it is then, in the case of a sale, practically of no value, as the produce has by that time been usually paid out to the parties entitled.

48. It is the practice to sell and purchase every separate sum of stock directed to be sold or purchased, and consequently both sales and purchases usually take place on the same day in the open market. Brokerage of one-eighth per cent. is charged to the suitor on each transaction, when the amount is 40l. or upwards, 1s. being charged for brokerage when the amount is less than 40l. The brokerage for 1861 amounted to 8,280l. 0s. 6d., whereof two-fifths, amounting to 3,312l. 0s. 2d., was retained by the broker as his remuneration, and the remaining three-fifths, amounting to 4,968l. 0s. 3d., was paid into the Sutors' Fee Fund, pursuant to Act of 15 & 16 Vict. c. 87. By the 21st section of this last-mentioned Act the Treasury was empowered to fix the rate of salary to be paid to the broker of the Accountant-General in lieu of brokerage; but this power has not been exercised.

49. A Committee of the House of Commons on Fees in Courts of Justice, in their Report of the 25th July 1849 (Parliamentary Paper 559), recommended "that the system of brokerage on suitors' funds be discontinued, and that 'only the balance of the stock required to be bought or sold on each day, be bought or sold by the broker, and that the one-eighth per cent. on the funds transferred, thereby saved to the suitor, and which, but for this alteration, would have been actually bought and sold, should be paid to the Sutors' Fee Fund, for the benefit of the suitors;" but this recommendation has not been adopted.

50. A Bill containing clauses embodying a plan for effecting the objects which the Committee on Fees had in view was introduced into the House of Lords in 1853, but the clauses were rejected by the Select Committee to whom the Bill was referred. A statement by Mr. Parkinson, the chief clerk of the Accountant-General, of the objections to adopting such a plan, has been brought before the Commissioners, and will be found in paper No. IV. page 95.

51. This last-mentioned Bill was introduced in Parliament in 1852, by Lord St. Leonards when Lord Chancellor, and the plan embodied in it for effecting the recommenda-

tions of the Committee has been described by Mr. Parkinson, in his paper No. XII., page 145, to be as follows:—

"An account was to be opened in the books of the Accountant-General, and in those of the Bank Chancery office, to be called 'the Stock Exchange Account,' and to the credit of that account sufficient sums of the suitors' cash, and of the various kinds of stock commonly dealt with, were to be placed. The several amounts of cash which parties might wish to invest were to be carried over to the credit of the same account, and from it, equivalent sums of stock in exchange for the cash were to be carried back. A similar but opposite process was to be adopted when sales were directed to be made. As neither sales nor purchases of stock were to take place until the state of the Stock Exchange account might render them necessary, some other mode of fixing the price at which the daily transactions in the stocks were to be calculated became necessary, and it was proposed to use the medium prices as struck every day at the Bank of England. These prices were to be sent each evening to the Accountant-General's office, and the amounts of stock and money necessary for the purchases and sales bespoken during the day were to be calculated upon them."

52. We have been unable to find any printed report of the proceedings before the Committee, or to ascertain on what grounds the clauses referred to were struck out. But we are not satisfied that the Bill provided a sufficient amount of capital on "the Stock Exchange Account" so as to obviate resorting constantly to the stock market to buy or sell stock for individual suitors, according as the state of the exchange account might require, and this was also an apparent oversight in the recommendation contained in the Report of the Committee on Fees before cited.

53. After considering the objections to the present system and the able suggestions made by the Incorporated Law Society and the Metropolitan and Provincial Law Association, we think that the present mode of effecting purchases and sales of stock for the suitors should be altered by employing the stock and securities for the time being on Fund A,* and the cash of the suitors in the Bank as a working or (as it is technically called) jobbing fund, and by operating on such fund instead of selling or purchasing for suitors on the Stock Exchange.

54. We think that under the proposed system the orders to be acted on by the Accountant-General should be so worded as to express accurately the exact nature of the transaction intended to be effected, and therefore, instead of the order directing so much stock to be sold, or so much cash to be invested, as at present, the order should direct so much stock to be converted into cash, or so much cash to be converted into stock, and that such conversion should be made at the medium price of the stock on the day fixed in the order for such conversion.

55. On referring to the Act of 10 Geo. 4. c. 24. s. 9., we find that Parliament has thereby provided that the Bank of England broker shall transmit daily to the National Debt office the medium price of stocks, and as Parliament has sanctioned this mode of ascertaining the daily value of stocks, with respect to transactions which are so large and numerous as the purchases of annuities in the National Debt office, we recommend that the same mode should be adopted in ascertaining the value of stock with respect to the sales and purchases to be made for the suitors of the Court of Chancery. In order to give publicity to such daily medium price of stocks, we recommend that such price should be exhibited in the Accountant-General's office, for the information of the parties interested, and filed there.

56. With respect to the time of conversion of cash into any of the stocks for the time being on Fund A., or of such stock into cash under the proposed plan, we think that such conversion should be made as on the day of the date of order directing the purchase or sale, unless the order directs such conversion to be made as of any other day or period.

57. We, therefore, beg to report, for the consideration of the Commissioners, the following plan, which in our opi-

Saturday to Friday, or from Wednesday to Thursday); the shortest in general is three days, but in very urgent cases investments have been completed in two days, or even one day, that is to say, bespoken one day and done the next. The obtaining the office copy of the certificate from the Report office cannot be said to be the completion of the investment, as the office copy will not be made until it is bespoken. The investment is completed when the stock purchased is accepted by the Accountant-General, as official notice of the fact is then sent to his own office, and by him to the Chancery office at the Bank.

* The Accountant-General in the same Paper also states that the time ordinarily occupied in effecting a sale or transfer from the time of bespeaking it at the Accountant-General's office varies from three to six days, according to the day on which it is bespoken. If the papers be left on Saturday, Monday, or Tuesday, the transaction is completed on the Friday following; if bespoken on Wednesday, Thursday, or Friday, it is done on the Tuesday following. The obtaining of the office copy of the certificate from the Report office is not the completion of the sale or transfer; it is complete when the Accountant-General signs the transfer book at the Bank of England. The stock, in the case of a transfer, is then in the name of the party to whom it is to be transferred, and in the case of a sale the transaction is also complete, the money arising therefrom having been previously placed to the Accountant-General's credit. The office copy of the certificate is not made until it is bespoken, and is very seldom made at all.

* The stock in Fund A. on 1st October 1861 consisted of the following amounts of stock, viz.—

	£	s.	d.
Consols - - -	1,202,064	16	11
Reduced - - -	1,404,100	10	9
Total - - -	2,606,225	7	8

purchased with 2,264,744l. 1s. 10d. cash out of the total cash in Court on that day, amounting to 2,702,548l. 11s. 11d. There are at present no new 3l. per cent. annuities on Fund A.

† By the expression "conversion" is intended a transfer of an equivalent amount of stock or cash, as the case may be.

‡ Under the existing practice a cash legacy is frequently satisfied out of stock in Court, by carrying over to the account of the legatee or by transferring direct to the legatee, a proportionate part of this stock, equivalent to the amount of the legacy, calculated at the medium price of this stock on the day fixed in the order.

nion is recommended by its simplicity as well as by the economy of time, and saving of expense, by which it would be attended* :—

A 1. The amount of the several stocks for the time being on Fund A. and the suitors' cash for the time being in the Bank (including cash on deposit), to be treated in the books of the Accountant-General as one general account, to be called "The Suitors' Stock and Cash Account."

A 2. When stock of individual suitor in Court of the several descriptions of stock for the time being on Fund A. has to be converted into cash, Fund A. to purchase such stock at the certified price of the day of conversion.

A 3. When cash of individual suitor in Court has to be invested in stock of any of the several descriptions of stock for the time being on Fund A., Fund A. to sell equivalent amount of the stock to the suitor at the certified price of the day of making investment.

A 4. Bank of England to certify to Accountant-General on each day the average price, on such day, of each of the descriptions of stock for the time being on Fund A., in like manner as such price is furnished to the National Debt Commissioners under Act of 10 Geo. 4. c. 24. s. 9.

A 5. On each such sale and purchase the account of the particular suitor to be charged with such deduction, to be credited to Suitors' Fee Fund, as under the existing system is borne by him.

A 6. Accountant-General to have power of sale with sanction of the solicitor to the Suitors' Fund, or such audit officer as may be appointed over the stock on Fund A., to the extent of raising sufficient to keep up the balance of cash in the Bank to a sufficient amount to meet current demands.

A 7. Accountant-General, under inspection of the said officer, to keep invested on account of Fund A. the surplus cash in the Bank beyond the amount required to answer current demands.

A 8. The Treasury to exercise the power vested in them by Act of 15 & 16 Vict. c. 87. s. 21, of fixing the rate of salary to be paid to the broker for transacting the business relating to the Court of Chancery.

58. With reference to this last proposal it is necessary to point out that, in our opinion, it would be of advantage that the separate office of broker to the Court of Chancery should be abolished, and that it should be consolidated with that of broker to the Commissioners for the reduction of the National Debt. Under the present separation of these offices there is a danger that these two official brokers may be at times obliged to compete against each other in the market to the detriment, either of the funds of the Commissioners or of those of the Court. The consolidation of the duties of these two offices would effect a further reduction in the amount of purchases and sales in the Stock Market, to the extent to which transfers in the books of the two departments at a medium price, and in those of the Bank, could be conveniently effected.

59. We are not aware whether the appointment and removal of the broker to the Court of Chancery now rests with the Accountant-General or with the Lord Chancellor; in either case we venture to recommend that the question of the consolidation of the office of broker to the Court with that of broker to the Commissioners be considered before the occurrence of a vacancy in either of them. The broker to the Court of Chancery received remuneration in the shape of brokerage in the year 1861 to the amount of 3,312*l.*; and the broker to the National Debt Commissioners received remuneration in the shape of fixed salary to the amount of 750*l.*, being a cost of 4,062*l.* per annum for the two offices.

60. It appears, from a statement of investments in stock, and sales of stock on account of Fund A. in Appendix No. 4, that certain gains and losses are stated as resulting in

the amount of the stocks in that fund from certain purchases and sales; but in all such calculations it appears to us that it is necessary to take into account the accrued interest on the stock at the time of purchase or sale. Thus a purchase of 214,165*l.* 3*s.* stock in reduced annuities was made in August 1860, with 200,000*l.* cash, and a sale of 221,300*l.* 3*s.* consols to produce the same amount of cash, took place in August 1861; these cannot be accurately compared without taking into account that the purchase in the one case included, in addition to the capital bought, between four and five months' interest, accrued thereon, while the sale included, in addition to the capital sold, only the proportion of the forthcoming dividend for one month. Such transactions evidently require to be watched, as it may again happen, as in the above case, that capital is applied to income. This may be guarded against by debiting and crediting income with the accrued interest on stock purchased and sold for the Fund A. on the Stock Exchange.

61. It appears necessary, moreover, that some check by Audit or otherwise should be established upon the amount of these transactions. Referring again to the sale of 221,300*l.* 3*s.* consols in one day in August 1861, the necessity for this sale is not very apparent, as the cash balance at the Bank on the 1st of October following amounted to no less a sum than 437,798*l.* 10*s.* 1*d.*, being upwards of 137,000*l.* in excess of the sum required to be kept there as a remunerating balance to the Bank. If a loss was sustained, as stated, in this sale of consols, that loss would appear to have been doubled without any apparent necessity, and the annual income of the Fund has also suffered by the sale of a larger amount of stock than was necessary to replenish the cash balance.

62. There is another point in reference to the amount of these transactions which requires notice. It will be seen on reference to the same statement in Appendix No. 4, that the recent purchases and sales of Stock for Fund A. have generally been made in amounts varying from 100,000*l.* to 200,000*l.* at a time. It is clear that transactions of such amount cannot take place in one day without affecting the price of stock to the prejudice of the operator. Purchases and sales of the stock in Fund A. should be made in the manner least likely to affect the market.

63. If the proposed Deposit account be established the stocks belonging to Fund A. should be so regulated in description and amount that the dividends receivable thereon should provide the cash necessary for the payment of the interest which may fall due from time to time to the suitors on their deposits.

64. Two important questions connected with the business of the Accountant-General's office are not referred to in this report; these are the concurrent audit of the transactions and accounts of the Accountant-General, and the duplicate record of causewise accounts kept in the Chancery Office at the Bank of England. These two questions are so connected that they must be considered together. As, however, they are not included in the reference to us we abstain from discussing them; we merely invite the attention of the Commission to the remarks of the Incorporated Law Society on the subject of "continuous audit" (Paper No. xiii., par. 27 and 28), and also to those contained in the statement prepared by Mr. Anderson, which we have annexed to this report (Appendix No. 5.).

65. We have also received from Mr. Rogers, of whose research and experience we have availed ourselves largely, two papers containing statements which we have appended to this report, and beg to submit to the Commission.

66. We cannot conclude this report without expressing our regret that it should be deprived of the weight and authority which it would have derived from the concurrence of our colleague, Mr. Crawford.

W. G. ANDERSON.
EDWIN W. FIELD.

14th June 1862.

* In this plan the word "stock" is intended to include securities.

APPENDIX No. 1, referred to in the foregoing REPORT.

1 & 2 VICT. CAP. LIV.

AN ACT for making further Investments from the Money of the Suitors of the Court of Chancery and the Court of Exchequer, and for providing for the Payment into Court of Fees received by certain Officers of the Lord Chancellor. [27th July 1838.]

WHEREAS by virtue of several Acts of Parliament divers sums of money have been taken out of the common and general cash belonging to the suitors of the High Court of Chancery, which lay dead and unemployed in the Bank of England, and have been placed out, in the name of the

Accountant-General of the said Court, on Government or Parliamentary securities; and such Government or Parliamentary securities have been carried to an account, intituled "Account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery"; and it may be expedient that further sums be taken out of the said common and general cash, and may be in like manner placed out in the like securities: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same :

Power to invest further part of the Monies belonging to the Sutors in Chancery.

That out of the said cash belonging to the suitors of the said Court of Chancery which may be standing to the credit of the Accountant-General of the said Court, and may be lying dead and unemployed in the Bank of England, any sum or sums of money may, by virtue of any order or orders of the Lord High Chancellor to be made for that purpose, from time to time be placed out, in one entire sum or in parcels, in the name of the said Accountant-General, on such Government or Parliamentary securities as in and by such order or orders shall be directed; and such sums shall be carried to the said account, intituled "*Account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery.*" (Fund A.)

Power to invest the Interest thereof.

II. And be it enacted, That the interest and annual produce which may arise from the monies hereby authorized to be placed out as aforesaid, and also the interest produced from the securities purchased with such interest and annual produce, or so much thereof as shall not be otherwise applied under the provisions of any Act or Acts of Parliament, shall from time to time be placed out in the purchase of Government or Parliamentary securities, in the name of the said Accountant-General, and be placed to the credit of the account now standing in his name, intituled "*Account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery.*" (Fund B.)

*Power to invest further Sums, part of the Sutors' Monies in the Court of Exchequer.**

III. And whereas, by virtue of an act passed in the first year of the reign of His late Majesty King George the Fourth, intituled "An Act for the better securing monies and effects paid into the Court of Exchequer at Westminster on account of the suitors of the said Court, and for the appointment of an Accountant-General and two Masters of the said Court, and for other purposes," an Accountant-General has been appointed of the Court of Exchequer, with power to do all matters and things relating to the delivering, securing, and investing of the monies and effects of the suitors of the said Court; and, under and by virtue of the authority for that purpose given by the same Act, part of the money belonging to the suitors of the said Court, lying dead and unemployed, has been placed out, in the name of the said Accountant-General of the Court of Exchequer, in the purchase of Bank Annuities, and such annuities now stand at the Bank of England in the name of the said last-mentioned Accountant-General to an account, intituled "An account of monies placed out for the benefit and better security of the suitors of the Court of Exchequer." And whereas there is now a large sum of money belonging to the said suitors over and above the money so invested, lying dead and unemployed, and it may be convenient to make further investments out of the said money from time to time as circumstances will permit; be it therefore enacted, that out of the money belonging to the suitors of the said Court of Exchequer which may from time to time be standing to the credit of the Accountant-General of the said Court, and may be lying dead and unemployed at the Bank of England, any sum or sums of money may, by virtue of any order or orders of the Court of Exchequer, or of the Lord Chief Baron of the said Court, or of any Baron to be nominated and appointed by Her Majesty to hear and determine causes depending in the said Court as a Court of Equity under and by virtue of the powers in that behalf contained in divers Acts of Parliament, be from time to time placed

out, in one entire sum or in parcels, in the name of the said last-mentioned Accountant-General, in such Government or Parliamentary securities as by such order or orders shall be directed; and such securities shall be carried to a new account to be raised in the books of the Bank of England in the name of the said last-mentioned Accountant-General, to be intituled "The account of further money placed out for the benefit and better security of the suitors of the Court of Exchequer."

Power to invest the Interest thereof.

IV. And be it enacted, That the interest and annual produce which may arise from the money hereby lastly authorized to be placed out as aforesaid, and also the interest produced from the securities purchased with such interest and annual produce, and all accumulations thereof, shall, by virtue of any such order or orders as last aforesaid, from time to time be placed out in the purchase of like Government or Parliamentary securities, in the name of the said last-mentioned Accountant-General, and be placed to the credit of the said last-mentioned account.

Funds may be sold to meet Demands of Sutors.

V. And, be it enacted, That if at any time hereafter the whole or any part of the monies to be placed out, in pursuance of the aforesaid provisions, to either of the accounts herein-before mentioned (Funds A. and B.), shall be wanted to answer any of the demands of the suitors of either of the said Courts of Chancery or Exchequer, then and in such case the said Lord Chancellor, as to funds in the name of the Accountant-General of the Court of Chancery, and the said Court of Exchequer, or the Lord Chief Baron, or other Baron to be nominated and appointed as aforesaid, as to funds in the name of the Accountant-General of the said Court of Exchequer, shall direct the whole or any part of the monies to be placed out as aforesaid to be called in, and the securities in which the same and the surplus interest and dividends herein-before mentioned shall be placed to be sold and disposed of, in order that the suitors of the said respective Courts may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

Power to change Securities.

VI. And be it enacted, That it shall be lawful for the Lord Chancellor, as to the funds of the said Court of Chancery, and for the Court of Exchequer, or the Lord Chief Baron or other Baron to be nominated and appointed as aforesaid, as to the funds of the said Court of Exchequer, by any order or orders, to authorize the change of the security or securities, or of any part of the securities, to be purchased pursuant of this Act.

Fees of Officers may be paid into the Bank of England.

VII. And whereas by an Act passed in the Session of Parliament holden in the third and fourth years of the reign of King William the Fourth, intituled "An Act for the regulation of the proceedings and practice of certain offices of the High Court of Chancery in England," an account has been raised in the books of the Bank of England, in the name of the said Accountant-General, intituled "The Sutors' Fee Fund Account;" be it enacted, That it shall be lawful for the Lord High Chancellor, by any order or orders, from time to time to direct that any fees or monies arising from fees heretofore received, or which may be hereafter received by or on account of any officer appointed or to be appointed by the Lord High Chancellor, holding his office at the pleasure of the said Lord High Chancellor, or during the vacancy of any such office, shall be paid into the Bank of England in the name of the said Accountant-General, to be placed to the credit of the said Account, intituled "The Sutors' Fee Fund Account," and be applied as part of such fund.

Act may be altered this Session.

VIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

* By the Act of 5 Vict. c. 5, the equity jurisdiction of the Court of Exchequer was abolished, and all the funds which had been purchased out of the general cash belonging to the suitors of that Court lying in the Bank dead and unemployed were by the same Act directed to be transferred to the Accountant-General of the Court of Chancery, to be added to and consolidated with the funds held by him under the provisions of the various Acts relating to the investment of portions of the Chancery Sutor's dead and unemployed cash in Fund A.

APPENDIX No. 2, referred to in the foregoing REPORT.

PROPOSED RULES and REGULATIONS as to dealing with Cash in Court not required by the Suitors to be invested.

NOTE.—The Rules will require the sanction of Parliament, but the Regulations may form General Orders, to be issued by the Lord Chancellor.

RULES.

RULE 1.—Establish a suitors' deposit account, to be entitled "Cash on Deposit," and authorize any suitors' money standing in Court, except Parliamentary deposits, to be placed to that account.

RULE 2.—All "Cash on Deposit" to bear interest at the rate of 2½ per cent. per annum (less property tax), but interest not to be computed on any amount of deposit less than 10*l.*, or some multiple thereof, or for any less period than three calendar months, reckoning from the first day of the month succeeding the day of deposit, or for any broken period of a calendar month.

RULE 3.—On 1st October in every year interest on such "Cash on Deposit" as is then entitled to interest to be calculated to that day, and be added to and become part of the principal money.

RULE 4.—All interest on "Cash on Deposit" to be satisfied out of the dividends arising on the stock and securities for the time being on Fund A.

REGULATIONS.

REGULATION 1.—Any suitors' money in Court at the time of these Regulations coming into operation, to be treated as "Cash on Deposit," on request made by or on behalf of any person claiming to be interested therein, or on the order or direction of the Judge or Master in Lunacy without such request.

REGULATION 2.—Except Parliamentary deposits, all suitors' monies (including interest of stock and securities in Court), hereafter paid into Court, or carried over to a separate account (unless the same shall have been ordered to be paid out or invested in stock or Government securities), to be

treated as "Cash on Deposit" without any order, direction, or request.*

REGULATION 3.—When any order has been made for payment out of any "Cash on Deposit," or for the investment thereof in stock or securities, interest on such amount as is payable or as is to be invested, to cease on the last day of the calendar month preceding the date of such order, unless otherwise directed by such order.

REGULATION 4.—The 41st of the Consolidated Orders, Rule 3, directing the investment in stock without any order or request, of monies paid into Court, under the Act 10 & 11 Vict. c. 96. (known as the Trustee Relief Act), and of the dividends of such stock, and of the stock transferred into Court under the same Act, to be abrogated, and also the first of the same Orders, Rule 11, as to the investment of the dividends of stock purchased with legacies to infants or persons beyond seas, paid into Court under Act of 36 Geo. 3, c. 52. s. 32., to be abrogated, but such monies to be treated as "Cash on Deposit," without any request for that purpose, as provided by Regulation No. 2.

REGULATION 5.—No direction for investment in stock or Government securities to be inserted in any order by the Registrar, without the express sanction of the Judge; but every order hereafter to be made containing such direction for investment, is to state at whose request such direction is inserted, and is to be acted on by the Accountant-General without any request for that purpose.

REGULATION 6.—No investment of stock to be made of any sum less than 100*l.* under any order already pronounced, unless on request made by or on behalf of one at least of the persons claiming to be interested; and no such investment to be made under any future order unless such order contains a direction to the effect that such investment is to be made "notwithstanding the sum does not amount to 100*l.*"; and in either of the two preceding cases mentioned in this Regulation, any such sums are to be treated as "cash on deposit," without any request for that purpose, as provided by Regulation No. 2.

REGULATION 7.—Such last-mentioned direction is not to be inserted in any order by the Registrar unless expressly authorized by the Judge.

* This would be readily known to the Accountant-General if the suggested transmission of the Orders direct from the Registrar's Office to the Accountant-General's Office be adopted.

APPENDIX No. 3, referred to in the foregoing REPORT.

STATEMENT of P. W. ROGERS, for the Use of his Colleagues, on the CHANCERY FUND COMMISSION, in considering the Expediency of establishing the proposed DEPOSIT FUND, as to the SUITORS' FEE FUND, and the SURPLUS thereof, and the INCOME of the SUITORS' FUND, and the Advantage attending the Amalgamation of those several Funds into one Fund.

1. In the second part of the memorandum prepared by Mr. Rogers for the use of the Chancery Funds Commissioners (paragraphs 49 to 89), will be found detailed particulars respecting the Income Fund formed of the dividends of the stocks on Funds A. and B., and also the Income Fund (Fund C.) composed of the fees paid by the suitors and the dividends of the stock on Fund D., being the stock purchased with the surplus of this Fund C., and also respecting the nature and amount of the charges thereon.

2. It will appear from the contents of the memorandum just referred to, that these three funds (namely, 1, the Income Fund, produced by the dividends of the stocks on Funds A. and B.; 2, the Income Fund C.; and 3, the Capital Fund D.) are closely connected, inasmuch as all these funds are charged with payments of a similar description,* and the surplus of the income of Fund (A. and B.) after retaining sufficient to provide for current payments, is periodically transferred to Fund C. The separation of these two funds not only necessitates a balance being retained on each, but leads to needless complication in exhibiting the expenses of the Court. If these two funds, as well as Fund D., the income whereof is periodically carried to Fund C., were

united (and it is believed that there is no practical objection thereto), the whole income and expenditure of the Court would be shown in an intelligible account. It is therefore proposed that on and after the 1st of October next, the balances and incomes of the Suitors' Fund (A. and B.) and of the Suitors' Fee Fund (Fund C.), and also the capital and income of Fund D., shall be carried to one account, to be styled the "Chancery Fee Fund," and that the whole expenditure now defrayed from these funds shall be charged upon this Consolidated Account,* and further that this Consolidated Account shall, like the other suitors' accounts, be balanced annually on the 1st of October.

3. By the union of these funds the cash balance on the 1st of October next (which is not likely in the interval to be diminished below its present amount) will be upwards of 110,000*l.*,† whereof 20,000*l.* will, it is believed, be an ample cash balance to retain on this Consolidated Account on the 1st of October in each year to provide for the payments becoming due between the 1st and 10th of the same month,

* In this Consolidated Account might usefully be included "The Appeal Deposit Account," on which there is a large amount of unclaimed deposits; and also the account known as "money arising by the sale of the Six Clerks' Office," whereon there is 1,500*l.* stock, the dividends whereof form part of the Income of Fund C.
† The exact amount of these balances on 1st October 1861 was as follows:—

	£	s.	d.
On Income of Suitors' Fund	-	-	18,826 7 6
On Fund C.	-	-	90,318 2 11
Total united balance	-	-	109,144 10 5

* The salaries of the Accountant-General and some of his clerks are charged partly on one fund and the remainder on the other.

If the dividends of Fund D. received in July 1861, amounting to 2,902*l.* 6*s.* 10*d.*, had been carried over to Fund C. as directed by Act of 16 & 17 Vict. c. 98. s. 4. this balance would have been increased to 112,046*l.* 17*s.* 1*d.*

on which latter day the Consolidated Account will receive the half-year's dividend, amounting to more than 20,000*l.*, on the Reduced Annuities on Fund A. The surplus of the united cash balance, amounting to upwards of 90,000*l.*, will be available for investment, and will be amply sufficient to provide a reserve to meet any temporary deficiency in the revenues of the Court which may be caused by the payment of interest to suitors on their cash deposits.

4. The effect of charging on the dividends of the stock on Fund A. the interest payable on the suitors' deposits will be for a temporary period to diminish the amount of the surplus of these dividends now carried over to Fund C., and so cause the future income of Fund C. to be for that time less than the amount of the charges thereon, and require the surplus of 90,000*l.* on this Fund C. to be resorted to to supply the deficiency;* but as every million of stock, beyond the present amount of 2,606,225*l.* 7*s.* 8*d.* stock on Fund A. that may be purchased for that fund with suitors' deposits, will yield an annual profit of about 12,500*l.* for the income of Fund A., such diminution may be expected not to continue for a period beyond two years, and the maximum of such deficiency is estimated not to exceed 30,000*l.* in either year. The inquiries that have been made as to the proportion of the future monies coming into Court likely to be placed on the Deposit Account, lead to the following estimated result:—

Suitors' cash and dividends (including Parliamentary deposits and produce of suitors' stock sold by the broker) annually paid into Court	-	-	£8,500,000†
Amount thereof not carrying interest under operation of Rule 2, Regulation 3	-	£4,000,000	
Amount thereof expected to be invested in stock at the instance of suitors	-	1,000,000	
			5,000,000
Leaving the residue thereof carrying interest as "Cash on Deposit," amounting to	-	-	£3,500,000

* The excess of income of Fund C. over expenditure amounts to upwards of 5,000*l.* per annum, and is annually increasing by the falling in of compensations.

† This amount, it is believed, is thus made up:—

1. Produce of suitors' stock sold by broker	-	2,500,000
2. Dividends of suitors' stock	-	1,500,000
3. Parliamentary deposits	-	750,000
4. Produce of estates sold by the Court	-	1,250,000
5. Receivers' balances	-	100,000
6. Other monies	-	2,400,000
		£8,500,000

5. In connexion with the subject of the amalgamation of the foregoing funds applicable to defraying the expenses of the Court, it may be mentioned that the salaries, pensions, and compensations charged on the income of Funds A. and B. are paid less income tax pursuant to Act of 9 & 10 Vict. c. 81., but the payments out of Fund C. for compensation and salaries (which in 1861 amounted to 135,557*l.* 7*s.* 8*d.*) are made without the income tax being "detained and stopped out of the same," as provided by the 5th Rule of Schedule E., to the original Income Tax Act of 5 & 6 Vict. c. 35, and the income tax is subsequently paid by the recipients to the collector thereof. Now the income tax on that portion of the income of this Fund C. derived from the surplus income of the Suitors' Fund (Funds A. and B.) being dividends of stock, and the tax on the dividends on the stock on the surplus Fee Fund (Fund D.) also carried to this account, having been deducted at the Bank before such dividends were paid to the Accountant-General, and placed to these accounts, it follows that the income tax has been paid twice to the Government. This portion of the income of the Suitors' Fee Fund (C.), for 1861, derived from these two sources, amounted, after deduction of income tax, to 59,103*l.*, and by the non-deduction of income tax on the compensations and salaries paid out of the Suitors' Fee Fund (Fund C.), and by retaining out of such deductions the income tax deducted at the Bank in respect of this 59,103*l.*, and paying over the balance of such deductions to the Commissioners of Inland Revenue, the loss to the fund amounted (the income tax calculated at the rate of 9*d.* in the pound), to upwards of 2,000*l.* a year. This may be remedied by the income tax on the salaries, compensations, and other payments chargeable with income tax being deducted before being paid, and the amount of the income tax so stopped less the amount of income tax deducted from so much of the income of this Fund C., as consists of dividends and rents, being paid over by the Court to the Commissioners of Inland Revenue quarterly.

6. In case of the preceding suggestion being adopted of amalgamating into one fund (Chancery Fee Fund), the income of Funds A. and B. and the Funds C. and D. and the two other funds before referred to, and of establishing a suitors' deposit account, the following plan of effecting the same object is offered for consideration.

7. The income tax on the salaries, pensions, and compensations charged on the Amalgamated Account (Chancery Fee Fund), and on the other monies payable thereout, liable to income tax, including the interest on suitors' deposits, to be deducted by the Chancery Accountant-General, and paid over by him to the Commissioners of Inland Revenue, less the amount of the income tax deducted by the bank on the dividends of stock payable to "the same Amalgamated Account."

APPENDIX No. 4, referred to in the foregoing REPORT.

STATEMENT of Mr. P. W. ROGERS for the use of his colleagues on the Chancery Funds Commission, in connexion with the reference to the Sub-Committee as to the sales and purchases of Stock: with statistical particulars of the sales and purchases of Stock for the Suitors, effected by the Broker of the Accountant-General.

1. The whole of the stock, securities, and cash in the custody of the Court of Chancery, on the 1st of October 1861, amounted to 52,911,898*l.* 5*s.* 9*d.*, and consisted of the following particulars, as given in the

STATEMENT of the BALANCES of the SUITORS' STOCK and CASH in the COURT of CHANCERY on the 1st October 1860, transmitted to the Lord Chancellor by the Bank of England.

	£	s.	d.
Total amount of Suitors' Cash	-	2,702,542	11 11
Cash laid out in purchase of Stock (Fund A.) pursuant to several Acts of Parliament	-	2,264,744	1 10
Cash in custody of the Bank	-	437,798	10 1
Bank 3 <i>l.</i> per Cent. Annuities	-	38,510,515	7 1
Reduced Annuities	-	7,165,697	5 5
New 3 <i>l.</i> per Cent. Annuities	-	5,707,018	19 8
Bank Stock	-	443,399	9 5
Exchequer Bills	-	272,800	0 0

	£	s.	d.
East India Stock	-	169,887	3 2
New 5 <i>l.</i> per Cent. Annuities	-	4,217	19 5
New 3 <i>l.</i> 10 <i>s.</i> per Cent. Annuities	-	3,877	10 0
New 2 <i>l.</i> 10 <i>s.</i> per Cent. Annuities	-	14,550	0 0
London Dock Stock	-	74,419	18 11
East and West India Dock Stock	-	34,882	11 8
Royal Exchange Assurance Stock	-	3,470	16 2
Hudson's Bay Stock	-	1,015	0 0
London and North-western Railway Stock	-	16,318	0 0
St. Katherine Dock Stock	-	14,950	0 0
Consolidated Stock East India Railway Company	-	3,470	0 0
India 5 <i>l.</i> per Cent. Stock	-	1,043	10 8
Annuities for terms of years ending 10th October 1864	-	35	0 0
Annuities for 30 years from 5th April 1855	-	610	9 7
Notes, Bills, and Private Bonds	-	27,188	2 10
Mortgages	-	4,732	11 8
Globe Insurance Shares, 24 Shares of 100 <i>l.</i> each.	-		
Westminster Chartered Gaslight Company, 2 Shares of 50 <i>l.</i> each.	-		
East India Company's 4 <i>l.</i> per Cent. Transfer Loan, 103,925 Rs. 10 An.	-		
Exchequer Orders, 5 <i>l.</i> per Annum.	-		
		£52,911,898	5 9

Note.—The average annual increase of the funds in the Court of Chancery is half a million.

2. The following are the particulars of the five principal accounts, on which the amounts of the funds mentioned in the preceding statement are held by the Court.

PARTICULARS of the FUNDS in CHANCERY in 1861.

Nos.	Short Title of the different Funds.	Designation in Report of Sub-Committee.	Amount of Stock and Securities.	Amount of Cash.	REMARKS.
1.	Funds belonging to individual suitors.	- - -	£ 48,375,218	£ 2,591,501	The stock and cash (No. 1) are subdivided in the ledgers of the Accountant-General among about 23,000 separate suitors' accounts.
2.	Suitors' Cash Fund	- Fund A. -	2,606,225	- - - 18,820	This stock (No. 2) represents the under-mentioned 2,264,744 $\frac{1}{2}$ portion of the general cash balance in Court belonging to the suitors, invested by the Court under the authority of Parliament.
3.	Surplus Interest Fund	- Fund B. -	1,291,629	- - -	This stock (No. 3) has arisen by the investment, up to 1852, of the surplus dividends of the stock on Fund A., after providing for the charges thereon.
4.	Suitors' Fee Fund	- - Fund C. -	- - -	90,318	This Fund, C., is an income fund, consisting in part of the produce of the fees levied on the suitors, and is applicable to defraying salaries of the officers of the Court, and other payments charged thereon.
5.	Surplus Fee Fund	- - Fund D. -	201,028	2,902	This stock (No. 5) has arisen by the periodical investment of portions of the surplus balances of Fund C. between 1833 and 1852.
	Total	- - - -	£52,474,100	£2,701,541	
	Cash invested on Fund A.	- - - -	- - -	2,264,744	
	Balance of cash in the Bank of England.	- - - -	- - -	£436,797	

Of the above funds the amount of stock on funds B. and D. are those which the Courts of Justice (Money) Bill proposes shall be applied in erecting the new Courts of Justice.

3. The following is a tabular analysis of a paper prepared by the Broker of the Accountant-General, for the use of the Committee on Lord St. Leonards' Bill, introduced into Parliament in 1852, and entitled "Particulars of the gross amount of consols bought and sold, the number of purchases and sales made on such gross amount by E. Mortimer on behalf of the Court of Chancery, the prices given and obtained, and the Bank average price of the day during the years 1851 and 1852."

Years.	Total Amount of Consols purchased.	Total Number of Purchases.	Total Number of Days whereon Purchases effected.	Number of Days whereon the Prices given were above the Bank Average Price of the Day.	Number of Days whereon the Prices given were below the Bank Average Price of the Day.	Number of Days whereon the Prices given were the same as the Bank Average Price of the Day.
1851	£2,313,188	1,801	164	41	16*	107
1852	£1,973,488	2,463	166	43	15*	108

Years.	Total Amount of Consols sold.	Total Number of Sales.	Total Number of Days whereon Sales effected.	Number of Days whereon the Prices obtained were above the Bank Average Price.	Number of Days wherein the Prices obtained were below the Bank Average Price.	Number of Days whereon the Prices obtained were the same as the Bank Average Price.
1851	£1,217,696	1,159	161	25†	62	74
1852	£1,636,295	1,173	164	15†	59	90

* On each of these 31 days (with the exception of 5 days) the amount of Consols purchased was less than the amount sold.

† On each of these days the amount of Consols sold was less than the amount purchased.

4. On reference to this paper it will appear that very many of the investments must have been of small amounts. As instances we may point out the following :—

	1852.	Amount of Stock purchased.	No. of Purchases.	Average Amount of each Purchase.
	May 29 - - - -	£ 4,455	72	£ 61
	„ 30 - - - -	3,940	123	32
	June 1 - - - -	4,346	63	69
	„ 19 - - - -	708	40	17
	„ 20 - - - -	604	63	9
	„ 22 - - - -	620	51	11

5. The following is a further tabular analysis of the same broker's paper, showing the amount (in round numbers) of consols bought and sold in each month during the years 1851 and 1852, and the difference between the amount (in round numbers) of sales and purchases in each month:—

1851.	Days.	Consols purchased.	Consols sold.	Excess of Purchases.	Excess of Sales.
		£	£	£	
January -	19	190,000	54,000	136,000	—
February -	24	266,000	94,000	172,000	—
March -	21	112,500	77,000	35,500	—
April -	14	199,500	74,000	125,500	—
May -	14	189,000	73,000	116,000	—
June -	8	122,000	76,000	46,000	—
July -	21	413,000	265,500	147,500	—
August -	12	343,000	375,000	—	32,000
September -	—	—	—	—	—
October -	2	33,000	500	32,500	—
November -	24	245,500	81,500	163,500	—
December -	10	239,500	75,000	164,500	—
		2,353,000	1,245,500	1,139,000	32,000
		Deduct excess of sales -		32,000	
		Net excess of purchases £		1,107,000	
1852.					
January -	19	195,000	125,000	70,000	—
February -	24	97,500	162,500	—	65,000
March -	26	269,000	111,500	157,500	—
April -	16	93,000	156,000	—	63,000
May -	13	152,000	113,500	38,500	—
June -	9	163,000	112,000	51,000	—
July -	20	242,500	332,000	—	89,500
August -	13	314,000	303,000	11,000	—
September -	—	—	—	—	—
October -	2	9,000	—	9,000	—
November -	24	180,000	106,500	73,500	—
December -	8	205,500	125,500	80,000	—
		1,920,500	1,647,500	490,500	217,500
		Deduct excess of sales -		217,500	
		Net excess of purchase £		273,000	

6. It is stated in a paper of Mr. Parkinson furnished to the Commission (Paper No. 4, p. 102) that during 1860 the amount of consols purchased was 3,790,524*l.*, and the amount sold was 2,197,751*l.*, making an excess of purchases over sales 1,592,773*l.* Assuming that 1,500,000*l.* will be the average amount of such excess in future, it would be requisite to purchase only to the extent of this amount in the open market, and such purchase would be made not for the suitors, but on behalf of the Court for Fund A. If the proposed deposit account should be established, it is expected that the investments by the suitors will be considerably diminished, and that for the future the sales of stock for the suitors will exceed the purchases for them. In that case the whole of this 1,500,000*l.* expected to be so invested annually for Fund A. will be held by Fund A.

7. The whole amount of stock and securities in Court on 1st of October 1861 was 52,474,100*l.* and the following are further particulars of the three principal stocks in Court on that day:—

	Total Amount in Accountant-General's Name.	Amount held for Suitors.	Amount held for Fund A.	Amount held for Funds B. and D. (*)
	£	£	£	£
Consols -	38,510,515	38,536,723	1,202,065	570,700 Fund B. 201,028 Fund D.
Reduced -	7,165,697	5,040,633	1,404,160	720,904 Fund B.
New 3 <i>l.</i> per cent. -	5,707,019	5,706,994	—	24 Fund B.
	£51,383,231	47,284,350	2,606,225	1,492,656

* The amount of the stocks on these Funds B. and D. are proposed by The Courts of Justice Money Bill to be appropriated for the erection of the new Courts of Justice.

8. The following statement shows the particulars of the investments and corresponding sales of stock on Fund A.

	Date of Investment or Sale.	Amount of Cash invested or raised.	Amount of Stock purchased.	Amount of Stock sold.	Loss.	Profit.
		£	£ s. d.	£ s. d.	£ s. d.	£ s. d.
P.	June 1844 - - -	100,000	101,265 16 6 R.	- - - - -	} - - - -	699 7 0
S.	November 1844 - - -	100,000	- - - - -	100,566 9 6 R.		
P.	May 1844 - - -	100,000	100,062 10 0 C.	- - - - -	} 2,593 19 10	—
P.	March 1845 - - -	100,000	99,875 3 2 C.	- - - - -		
S.	August 1845 - - -	200,000	- - - - -	202,531 13 0 C.	} - - - -	4,330 2 7
P.	June 1854 - - -	100,000	109,252 8 8 R.	- - - - -		
S.	August 1856 - - -	100,000	- - - - -	104,922 6 1 R.	} - - - -	1,602 16 8
P.	August 1855 - - -	50,000	54,234 8 3 R.	- - - - -		
S.	August 1856 - - -	50,000	- - - - -	52,631 11 7 C.	} - - - -	2,157 7 8
P.	June 1854 - - -	100,000	109,252 8 8 R.	- - - - -		
S.	December 1856 - - -	100,000	- - - - -	107,095 1 0 R.	} 1,187 4 6	—
P.	August 1855 - - -	100,000	108,991 16 8 C.	- - - - -		
S.	August 1857 - - -	100,000	- - - - -	110,179 1 2 C.	} 3,781 4 4	8,789 13 11
					Deduct loss -	3,781 4 4
					Gain - -	5,008 9 7
P.	August 1860 - - -	200,000	214,165 3 0 R.	- - - - -	} - - - -	7,135 17 0
S.	August 1861 - - -	200,000	- - - - -	221,300 3 0 C.		
	Total - - -	1,700,000	897,099 14 11	889,226 5 4	Net loss - -	2,127 7 5

Explanations of the above Initials.

P. = Purchases. S. = Sales. R. = Reduced Annuities. C. = Consols.

9. All stock held by the present Accountant-General, either for the suitors or the Court, stands in the books in which the accounts of such stocks are kept, whether at the Bank of England or elsewhere, under the title of "William Russell, Esq., Accountant-General of the Court of Chancery, in trust to attend the orders of the Court," and in the statement furnished to the Commission by the Accountant-General as to his department, p. 135, it is stated that

the Accountant-General attends at the Bank of England on Tuesday and Friday in each week, and also when requested at other places where stock is transferred for the purpose of signing in the transfer book his acceptance of the stock purchased and transferred into Court, and of the stock transferred and sold out of Court. This formality might be dispensed with, and the same object be attained, and the security of the suitors at the same time duly provided for,

by adopting the following recommendations, based on the provision contained in the Act 24 & 25 Vict. c. 124., as to the Metropolitan Police District Receiver.

By sect. 1 of this Act, Parliament has directed that "the person for the time being holding the office of Receiver for the Metropolitan Police District, shall be a corporation sole by the name of 'the Receiver for the Metropolitan Police district,' and by that name shall have perpetual succession, with a capacity by his official name to acquire and hold land, to hold stock in the public funds, shares in any public company, securities for money and personal property of every description." And by sections 4 and 5 of the same Act it was enacted "that the name of the Receiver for the time being shall not thereafter be inserted in the official accounts kept by him with the Governor and Company of the Bank of England," and "that the Receiver may by the direction of one of Her Majesty's principal Secretaries of State transfer, demise, enfranchise, mortgage, or otherwise dispose of property of any tenure vested in him in his official capacity."

10. The same principle appears to be equally applicable to the stock securities and cash held by the Accountant-General of the Court of Chancery, and therefore the name of the person for the time being holding the office of Accountant-General should be omitted in the title of the accounts kept at the Bank of England, both for stock and cash, as well as securities, and that on every transaction in the stock books at the Bank, the following course should be pursued, viz. :—

11. On every transfer of stock into Court, the Accountant-General to send to the Bank a request that the Broker be permitted to accept for him the several amounts of stock mentioned in such request.

12. On every purchase of stock the Accountant-General to send to the Bank a request that the Broker be permitted to accept for him the several amounts of stock mentioned in such request, and on the Bank stock clerk certifying the acceptance of such stock, the cashier of the Bank to be authorized to pay to the Broker the amount of the purchase money for such stock as specified in such request.

13. On every transfer of stock out of Court, the Accountant-General to send to the Bank, in addition to the Registrar's Certificate authorizing the transfer, a request that the Broker be permitted to transfer for him the several amounts of stock mentioned in such request.

14. On every sale of stock, the Accountant-General to send to the Bank a request that the Broker be permitted to transfer for him the several amounts of stock mentioned in such request, upon the Cashier of the Bank certifying the payment into the Bank of the amount of the monies arising by the sale to be specified in such request.

15. Before closing this subject, it may be useful to the Commission to append the following information with respect to the Broker who acts for the Court of Chancery.

The present Broker, in his evidence before the Committee on Fees in 1848, states that he was appointed by a predecessor of the present Accountant-General in 1823 as Broker to the Accountant-General of the Court of Chancery, and that the usual brokerage of one-eighth per cent. on all sales and purchases is divided between the Accountant-General and himself, the Accountant-General taking three-fifths, and the Broker two-fifths, and he stated that his proportion of the brokerage during the preceding eight years was as follows :—

	£	s.	d.		£	s.	d.
1841	-	1,803	2 6	1845	-	2,348	8 9
1842	-	1,643	5 0	1846	-	2,578	0 0
1843	-	1,494	18 6	1847	-	2,146	0 0
1844	-	1,773	19 1				

16. By the Sutors' Relief Act, passed 1852, it was by sect. 18 enacted that the brokerage to be received by the Accountant-General should be paid by him into the Sutors' Fee Fund account, and by sect. 19 of the same Act, it was directed that there should be thenceforth paid to the present Accountant-General, in lieu of such brokerage, the sum of 2,700*l.*, which, by a subsequent section, was charged on the same Sutors' Fee Fund account.

17. In the annual return as to the Sutors' Fee Fund account made to Parliament by the Accountant-General since that year, the amount of the Accountant-General's share of the brokerage (viz., three-fifths) paid into that fund is stated, from whence the following would appear to be the amount of the Broker's proportion thereof (viz., two-fifths), since 1852 :—

	£	s.	d.		£	s.	d.
1853	-	1,988	6 0	1858	-	2,719	5 8
1854	-	2,548	13 8	1859	-	3,097	7 6
1855	-	2,144	4 8	1860	-	2,736	19 0
1856	-	2,795	5 2	1861	-	3,312	0 2
1857	-	2,648	6 4				

18. It has not been ascertained what number of clerks the Broker permanently employs in respect of the business transacted for the Court of Chancery, but it is stated that it requires, *in busy periods of the year*, as many as seven persons.

19. The total number of purchases hitherto annually made may be estimated as approaching 6,000 (the investments of dividends alone amounting, it is believed, to upwards of 3,000 a year); but the sales do not probably reach half that number. If the investment in stock of sums under 100*l.* were not hereafter made unless specially directed or required, the number of purchases would probably be reduced by two-thirds. The number of days the Accountant-General's office is open during the year (exclusive of vacations) is about 200, so that the stock transactions (estimating the annual sales and purchases for the sutors at 5,000) in future would average about 25 per day, and to transact these duties, one clerk would probably be sufficient, with the occasional assistance of another clerk.

APPENDIX NO. 5, REFERRED TO IN THE FOREGOING REPORT.

STATEMENT of Mr. ANDERSON, with respect to the CHANCERY ACCOUNTS kept at the Accountant-General's Office, and at the Chancery Office of the Bank of England, for the information of his Colleagues on the Chancery Funds Commission.

1. I have availed myself of the courtesy of the Accountant-General of the Court of Chancery, and of the Governor of the Bank of England, who have permitted me to make myself acquainted with the system upon which the accounts are kept in the Accountant-General's office, in Chancery Lane, as well as with that which is in operation in the Chancery Office at the Bank of England; and in conducting this inquiry I have had much valuable practical information, explanatory of the accounts, verbally afforded to me by Mr. Parkinson, the chief clerk of the Accountant-General, and by the officers of the Bank of England.

2. The books of the two offices contain the separate accounts of the sutors, and of the various funds under the control of the Court, in duplicate. Previously to 1852 triplicate accounts were kept; the third set of books was kept in the department of the Chancery Report Office. This department is referred to in the Act of 12 Geo. 1. c. 32. (printed at length in Mr. Rogers's statement, p. 66), establishing the Accountant-General's Office. It was reconstituted by the Act 3 & 4 Will. 4. c. 94., under the title of the Clerks of Accounts Office, and continued in active

operation until the passing of the Act 15 & 16 Vict. c. 87. (s. 36), by which it was abolished.

3. The books kept in the Accountant-General's Office in Chancery Lane, consist of—

- I. Direction books.
- II. Receipt books.
- III. Journals of receipts.
- IV. Journals of payments.
- V. Ledgers.

I. DIRECTION BOOKS.

4. These books contain directions to pay in money, i.e., authorities to the Bank of England to receive money. The Court makes an order for a sutor to pay in money to the credit of a particular cause, matter, or account. On the presentation of such order at the Accountant-General's Office a direction is issued by the Accountant-General under which the Bank of England receives the money.

Moneys are sometimes paid to the Bank under the provisions of certain Acts of Parliament, without orders from the Court; but the Accountant-General's "Directions" to the Bank are required, and are the same in form. No subsidiary books for the entry of these directions are kept in the Chancery Office at the Bank of England. The Accountant-General's directions describe the causes or matters to which the moneys are to be placed in the Chan-

cery Office at the Bank, and the amounts, after examination in that office, are entered at once in a cash book kept in the General Cash Book Office at the Bank, in which the substance of the directions is recorded.

5. The Direction Books contain also entries of directions to "carry over" money, stock, or securities (*i.e.*, to transfer money, &c. from one account to another). These transfers are made under orders of the Court, and the Accountant-General issues the necessary certificate to the Chancery Office at the Bank where the accounts, from which the "carrying over" are to be made are referred to, for the purpose of ascertaining that the titles, as quoted in the Accountant-General's certificate, are correct, and that there is a sufficient amount of cash or stock, or perhaps both, to answer the "carrying over." These transfers do not affect the business of the banking department of the Bank of England; they are, therefore, only taken cognizance of in the Chancery Office of that establishment. They are there entered in the "carrying over" journal, and the respective causes or matters are debited and credited. The Chancery Office at the Bank furnishes the Chancery Accountant-General with certificates of such transfers having been made.

6. The Direction Books embrace moreover entries of purchases of stock. The Chancery Broker receives his instructions from the Accountant-General's Office daily; he makes his purchases for a prospective day, and sends to the Accountant-General the Broker's or contract notes. These notes, with the conditions of the contracts, are entered in the "Direction Books," under the dates for which the contracts are made.

7. The Accountant-General attends at the Bank, usually on every Tuesday and Friday, and signs his acceptance of all transfers of stock purchased by the Broker, and subsequently furnishes the Chancery Office at the Bank with certificates of the stock accepted, from which the proper accounts in the Bank Chancery Ledgers are debited and credited.

8. Sales of Stock are likewise recorded in the Direction Books. The Chancery Broker receives (in like manner as in the case of purchases) his instructions from the Accountant-General's Office, and the practical steps are similar to those already described. The Registrar's certificate, in which the particulars of the stock to be sold are stated, is examined in the Chancery Office at the Bank, to see that there is sufficient stock on the particular account to allow of the sale being made before the Broker makes the sale.

9. The necessary entries of such sales in the books of the Chancery Office at the Bank, are made under the accounts of the respective causes or matters to which they relate, from information furnished by the Accountant-General.

II. RECEIPT BOOKS.

10. The Receipt Books contain,—

- 1st. Receipts or acknowledgments for principal moneys paid out.
- 2nd. Ditto, for special payments of interest money.
- 3rd. Ditto, for the first payments of regular interest drafts.
- 4th. Ditto, for subsequent payments of the same.
- 5th. Ditto, of the Chancery Broker for the cheques given to him for investment.

11. These Receipt Books contain the separate vouchers (five in each page) for the drafts of the Accountant-General, bound up in volumes. The persons entitled to payment sign receipts in these books in acknowledgment of the drafts given to them. These drafts are payable at the Bank of England to the persons named in them, or to their Attorneys.

12. No similar books are required to be kept at the Chancery Office in the Bank of England, as the Accountant-General's drafts are the vouchers upon which the actual payments are made.

13. The Broker signs receipts for the "cheque notes" issued to him for the sums ordered to be invested. The payment of these notes is conditional on his causing specified amounts of stock to be transferred to the Accountant-General, in trust, to attend the orders of the Court; and payment is not made to the Broker until a certificate is produced from a clerk in the Stock Office at the Bank of England, showing that the condition has been complied with.

III. JOURNALS OF RECEIPTS.

14. A separate "Journal of Receipts" is kept in each of the four divisions of the Accountant-General's Office. In these books the formal journal entries are completed twice a week. By these entries the aggregate debits to be raised in the ledgers to the general accounts of "Cash at the Bank

of England," and the separate credits to the several suitors' accounts to which the receipts of cash during the period relate, are formally recorded for the ledger postings to be founded upon them. In the same way, the separate causes or matters and the accounts opened for the several descriptions of stock are debited and credited with the amounts of stock transferred. The accounts of the suitors are opened in the ledgers in double money columns for the separate record of the cash and stock entries. Practically, the money columns represent separate accounts, which, for convenience and saving of labour, are opened under one title.

15. The purchases and sales of stock, stock transferred into and out of Court, and "carrying over" (or transfers between accounts), are all journalized in the "Journals of Receipts."

IV. JOURNALS OF PAYMENTS.

16. A separate "Journal of Payments" is also kept in each of the four divisions of the Accountant-General's Office. The entries in these journals are founded on "payment slips" furnished daily from the Bank of England. These payment slips are daily lists of the Accountant-General's drafts which have been cashed, and they contain references to the pages of the Accountant-General's receipt books, where the explanatory vouchers upon which the drafts were issued are to be found, for the convenience of examination and record in the Accountant-General's Office.

17. The drafts given to the broker for purchases of stock affecting the cash column of the Sutors' Ledger Accounts, are included in the same entry as the other payments of the same date.

V. LEDGERS.

18. The ledgers kept in the Accountant-General's Office consist of,—

- 1st ledgers for current accounts, 2 sets, each 20 in number;
- 2d do. for dormant accounts, 4 in number;
- 3d do. for general accounts of stock and cash, 4 in number;

besides, occasionally, additional ledgers when it is not thought expedient to open a new set.

19. The accounts in the ledgers for current and dormant accounts are opened in the order of the letters of the alphabet, and the duty of keeping them is assigned to the four divisions of the Accountant-General's Office, as follows:—

- | | |
|--------------|--------------|
| 1st, A to C, | 3d, K to Q, |
| 2d, D to J, | 4th, R to Z. |

20. In these ledgers a separate Dr. and Cr. account is opened for every cause or matter in Chancery. The total number of accounts opened is about 23,000, of which about one-fourth are single accounts consisting of cash only, and the remaining three-fourths are double accounts, consisting of both cash and stock, which are entered in distinct money columns. The ledgers for the general accounts of stock and cash contain, as their name implies, general accounts of each description of stock and general accounts of cash, representing in aggregate the separate amounts of stock and cash distributed over the various suitors' accounts.

21. Fuller details respecting the books kept in the Accountant-General's department will be found in the statement tendered in evidence by the Accountant-General.

22. The duplicate books kept in the Chancery Office at the Bank of England consist of 13 journals and 36 ledgers.

The 13 journals are divided into,—

23. (1st.) Cash journals (4 in number). These contain the necessary entries defining the debits and credits for the cash paid in and paid out on account of the various causes or matters.

24. (2d.) Stock journals (4 in number). These contain similar entries for all operations in stock; also for all transfers of stock into and out of Court.

25. (3d.) Dividend journals (4 in number.) These dividend journals are founded on the dividend sheets which are made out at the Accountant-General's Office and examined in the Chancery Office at the Bank; they record the debit to the cash account of the Accountant-General of the Court, for the full amount of the dividend due upon the stock standing in his name, and the credits to the various suitors' accounts comprised in that amount.

26. (4th.) Carrying-over journal (one). This journal is devoted to the record of transfers of cash, stock, or securities, under orders of the Court, between the various causes or matters for which accounts are opened in the ledgers.

27. The 36 ledgers are divided into,—

- 30 for current accounts,
- 5 for dormant accounts, and
- 1 for the general accounts of cash and securities.

28. These ledgers contain the separate Dr. and Cr. accounts of the various causes or matters for which similar accounts are opened (as already described) in the ledgers kept in the Chancery Accountant-General's department.

29. Further details of the books kept in the Chancery Office at the Bank of England will be found in the statement furnished by the Bank.

30. In the foregoing description of the books kept in the office of the Chancery Accountant-General and in the Chancery Office at the Bank of England, I have given detailed explanations, with the view of affording the means of judging how far the duplicate books kept in one department are a necessary and efficient check upon the accuracy of those kept in the other.

31. The ordinary means by which Accountants prove the correctness of the entries in the various books of account, is by an examination of those entries with the original vouchers upon which they were made. By such examination the check upon the original record of every transaction is immediate and final. The classified entries in the principal books are checked by a comparison of those entries with the original record upon which they are founded. Such is the course adopted universally in public and private establishments. I am not aware of a single precedent in any public establishment in which the elaborate machinery of duplicate books is set up for the purpose of checking the correctness of the accounts.

32. I feel confident that if the Bank of England had been solely charged with the duty of keeping the Chancery accounts, the last measure they would have thought of having recourse to for their security would have been that of keeping the accounts in duplicate.

33. But it may perhaps be said that the duplicate accounts are intended to accomplish a more important object than that of guarding against unintentional error in the Accountant-General's Department, and that they are as complete a security against fraud or irregularity in the conduct of the financial business of the Court, as if the accounts were, like all other accounts, submitted to an efficient audit.

34. Even if the completeness of this security could be proved, I should still be disposed to question the expediency of resorting to duplicate records as the proper substitute for a regular audit; but I am more reluctant to admit the propriety of continuing the duplicate accounts for that purpose, as I am not satisfied that they afford any security which would not be more readily accomplished, and at a less cost, by a single set of books in the Accountant-General's Department examined by competent auditors, who could verify every entry made in them by a comparison with the original vouchers. The orders of the Court of Chancery authorizing every transaction of the Accountant-General with respect to the funds of the suitors, are never exhibited in the Chancery Office at the Bank, in which the duplicate accounts are kept; and it will be seen by the papers furnished by the Accountant-General and by the Bank of England, how much of the work of this office is founded on information supplied by the Chancery Accountant-General, upon whom the check is imposed.

35. The expense of a regular audit would, in my opinion, be less than that which the system of duplicate accounts entails. It is stated by the Bank that the usual mode of treating mercantile balances is to consider two-thirds as invested at 3 per cent., but that in the case of the Chancery balance one half only of the average balance can be so considered, which, at that rate of interest, would only yield a sum of 9,000*l.* a year for risk, pains, labour, and profit. This sum is so far beyond any estimate which I can venture to make of the probable cost of an audit, that I cannot anticipate any objection to the measure on the score of expense.

36. Before I close my remarks on this part of the inquiry, I think it right to state that the principle upon which the books of the Accountant-General are kept is sound, and calculated to secure correct results. The system in use is that of double entry, the efficiency of which has been recognized from a remote period, by its almost universal adoption by the merchants of this and of other nations. But, although the principles of the system are the same now as they were when it was first introduced into the Chancery Accountant-General's Office, more than a century back, and although those principles are as applicable to extensive as they are to more limited accounts, yet few will deny that, in the practical application of that system, a different machinery is necessary to effect its purposes where the accounts are so extended as the Chancery Accounts now are, than was required for the convenient record of the transactions on their originally contracted scale. By a different machinery, I do not mean the mere multiplication of the same books with details in

the same form, but a classified subdivision of the transactions, in subsidiary books specially adapted to the intelligible and expeditious record of them. If such improvements in the working machinery of the system have not kept pace with the growth of the accounts, it must be remembered that up to 1852 the same Chancery accounts were kept in three separate establishments, and that subsequently to that date they have been kept in two, and that changes in the subordinate machinery of the system in one establishment, unless adopted at the same time in the others, were calculated to render more difficult that perfect agreement of details and results for which they were established. It is not therefore surprising that the system in operation has undergone so little change since it was originally established.

37. Although I do not recommend any immediate disturbance of the existing system of record of the Accountant-General's transactions, in the books of his department, I will not refrain from offering a few suggestions which, if now placed on record, may be considered and become of practical use at some future fitting opportunity.

38. In the first place, I am of opinion that cheques, drawn by the Accountant-General on his account at the Bank, should be immediately passed to account in his books, instead of the entries being delayed until such cheques have been actually paid by the Bank.

39. I am aware that the reason of this deviation from the ordinary practice is to facilitate the agreement between the transactions recorded in the two sets of accounts; but this is not, in my opinion, a sufficient reason, as that agreement could be easily made by making the proper allowance for the outstanding or unpaid cheques.

40. It may be useful to offer a few remarks here on the practice pursued at the Accountant-General's Department, in preparing, signing, and issuing cheques.

41. At present all the cheques payable from the Accountant-General's Account at the Bank of England are signed by himself. The great number of those cheques,* amounting to upwards of 40,000 in a year, and the pressure which exists at certain periods, owing to the numerous demands for payment at the office of the Accountant-General, render it necessary to prepare the cheques and sign them, in anticipation of those demands, so that the applicants may not be delayed in obtaining payment of the sums due to them. The consequence of this practice is that signed cheques to a considerable amount, remain in the custody of the clerks in the different divisions of the Accountant-General's Office, until applied for by the persons in whose favour they are drawn. This is a vicious system of conducting a money business, but it must be added that it is unavoidable under the existing regulation which requires that every cheque shall be signed by the Accountant-General himself.

42. The system adopted in the Paymaster General's Office in making payments to public claimants, which exceed in time of peace sixty millions a year, appears better calculated to promote the security of the public. It is as follows:—

43. The moneys issued to the Paymaster General from the grants of Parliament, and the sums paid to his account by public departments or by private individuals, are placed to a *Supply Account* at the Bank of England. No cheque is payable from this account, and it can only be operated upon by "writes off," or transfers, to certain *Drawing Accounts*. He grants a deputation to his assistant, who acts for him, empowering him to write off from this *Supply Account* the sums which may be necessary, from time to time, to feed the *Drawing Accounts*. He also grants deputations to certain clerks in his office, empowering them to draw cheques upon the *Drawing Accounts*. No cheque is drawn until it is applied for by the proper claimant, who delivers to the paying clerk the authority and voucher for it. Every cheque drawn is countersigned by another clerk, who affixes his signature to it, not as a matter of form, but after comparison with the voucher upon which it is issued.

44. The security of this system consists in leaving the principal part of the cash balance upon an account from which no draft is payable, and in limiting the issues to the *Drawing Accounts*, out of which the drafts are cashed, to the probable sums required to meet the payments of each day. Every signature affixed to a document authorizing the transfer or payment of money is evidence of examination with the voucher by which it is supported; while the head officers of the department, being relieved from the comparatively mechanical duty of signing numerous drafts for payments which they could not find time to verify, are

* In addition to this number of cheques the Accountant-General is required to affix his signature to numerous other documents. The number of documents to which his signature is attached may be estimated at nearly 100,000 in the year, or probably not less than 150 per hour.

enabled to execute the higher functions of control and direction of the general duties of their departments.

45. The absence of a general cash book in the Accountant-General's Office is, in my opinion, a defect in his system of account. At present a cash account is opened in each of the four divisional ledgers for general accounts. The periodical returns from the Bank, showing the receipts and payments, are posted to these separate cash accounts, and the balances upon them are struck. The net result of the Dr. and Cr. balances upon these accounts agrees with the actual balance of cash at the Bank. The separate balances of cash on the four accounts in the divisional ledgers are, however, fictitious; no such separation exists in the Cash Account at the Bank.

46. This defect arises from the absence of a general cash book, which might be kept at a trifling cost of labour, if founded on the classified subdivision of the cash transactions in subsidiary books, to which I have before adverted. Such a general cash book, according to a lithographed form, which provides, under fixed general heads, for the record of the daily total of each class of receipts and payments, has been for many years in operation in the Paymaster General's Office, where the daily cash operations are very numerous; and I refer to it as a practical example of the successful application of a condensed record to the cash transactions of a large department, which may be studied with advantage in any revision of the Accountant General's accounts.

47. I beg to refer also to the journals of receipts and of payments, eight in number.

48. I consider that these books are susceptible of much improvement, and that the use of books auxiliary to the journals would simplify the accounts, and lessen the labour of keeping them. It will be seen, on reference to the description of the "Direction Books," and of the "Receipt Books," in the preceding part of this statement, that they contain a mixture of entries which are obviously susceptible of distinct classification; if separate books, with columns adapted to the record of the particulars required for the full and clear narration of every entry, were employed for the registry of particular classes of transactions, such books would be useful auxiliaries to all the principal books; they would diminish the labour of the frequent journalizing which now takes place; they would facilitate the postings

of the ledgers, expedite the transaction of business, and promote accuracy in the accounts. An improved form of journal, with Dr. and Cr. money columns, is in use in several of our public departments, which might be advantageously applied to these accounts.

49. It does not appear to me that any change is called for in the form of the ledgers containing the separate accounts of suitors. The details recorded under those accounts should be adapted to meet the requirements of the profession and of the Accountant-General's Department.

50. I should have considered the general system of account more perfect, if the divisional ledgers had been subsidiary to a general ledger kept under the immediate direction of the Accountant-General, or of his chief clerk. Such a ledger, combining the results of all the others under general accounts, might be kept without much labour, under a judicious classification of the subsidiary books. With the aid of such books, condensed results could be carried, without needless repetition, to the general ledger, which would then become a check upon the results of all the others.

51. It may also be worthy of consideration whether it would not be desirable for the security of the Court as well as of the Suitors, to enforce a regulation in the Accountant-General's Office similar to that which is adopted in many banking houses, to the effect that at a fixed period in each year all transcripts of accounts or pass-books should be returned to the Accountant-General's Office and made up and reissued by the Accountant-General.

52. I offer these suggestions rather for future consideration than for immediate adoption. I am sensible that changes in accounts so extensive as those under consideration can only be introduced gradually, and after careful preparation, under the immediate direction of the practical officer at the head of the department responsible for the proper conduct of the financial business of the Court of Chancery. I fulfil my duty by placing these suggestions on the records of the Commission; and by referring those who, at some future opportunity, may be disposed to test the value of them, to some of our great public departments, where the improvements to which I have referred may be seen in practical operation.

1862.

W. G. ANDERSON.

No. XVII.

STATEMENT (No. 1.) by MR. CRAWFORD of the REASONS WHY HE DOES NOT CONCUR in the RESOLUTIONS PROPOSED in the SUB-COMMITTEE.

1. At the last meeting of the Sub-Committee held on the 11th December, I was requested by my two colleagues to state in writing my reasons for not concurring in the views expressed in the following draft of resolutions proposed by Mr. Anderson for our adoption with Mr. Field's assent.

2. We were charged by the Commission "to consider with reference to the interests of the suitors, and the revenues of the Court," these two points:—

1st. The propriety of any alterations in the existing mode of effecting purchases and sales of stock.

2nd. The propriety of any alteration in the existing mode of dealing with the cash in Court not required by the suitors to be invested.

Draft Resolutions.

3. With reference to the first point referred to the Sub-Committee, namely:—

"The propriety of any alteration in the existing mode of effecting purchases and sales of stock;"

It is proposed that the Sub-Committee should report,—

1st. That they should commence by describing the course pursued in making purchases and sales, as detailed in Mr. Rogers' paper No. 21 in the Accountant-General's Paper, No. 3, and No. 4; in the evidence of the Chancery Broker, and in that of Mr. Parkinson, before the Select Committee on Fees, in 1848.

2ndly. That it appears to the Sub-Committee inexpedient that Chancery should appear as a dealer on the Stock Exchange in any case in which the investments and sales can be avoided by transfers from and to the stocks in Fund A. standing in the books of the Accountant-General of the Court.

3rdly. That the Sub-Committee should propose the mode of effecting such transfers by resorting to the stock belonging to Fund A. as the working account.

4thly. That as such alteration in the mode of effecting purchases and sales, and as the creation of the guaranteed fund for the sterling amount of suitors' deposits (proposed under the next head) will materially affect the profits of the broker of the Court, the Treasury should be requested to exercise the power vested in them by the Act 15 & 16 Vict. c. 87. s. 21, and to fix the rate of salary to be paid to the broker, for transacting the business relating to the funds of the Court.

With reference to the second point referred to the Sub-Committee, namely,—

"The propriety of any alteration in the existing mode of dealing with the cash in Court not required by the suitors to be invested;"

It is proposed that the Sub-Committee should report,—

That it is not proposed to make any alteration where suitors do not demand an investment, [on deposit account], but that it is proposed to give the suitors the option of a new mode of investment in a guaranteed fund, i.e., that they shall be guaranteed the repayment of their full capital in sterling, with interest, at a rate which will be sure to leave a profit to the Court (say at a rate of 2 per cent.)

4. The Resolutions propose, in the former case, to carry out in effect the plan of effecting the purchases and sales of the suitors' monies, through a "Stock Exchange Account" of the Court, embodied in Lord St. Leonards' bill of 1853; but rejected by the Committee on the bill; and in the latter case, to offer the suitors a new mode of investment for their monies, at a low, but certain, rate of interest, in a guaranteed fund.

5. I will state my opinion upon each of these propositions separately—

PART I.

“1st. *The propriety of any alterations in the existing mode of effecting purchases and sale of stock.*”

6. It is unnecessary to recapitulate the course of procedure with regard to the investments of the suitors’ monies. It is explained very fully in the papers quoted in the first draft resolution.

7. The objections taken to the present system are stated in the memorial of the Metropolitan and Provincial Law Association, addressed to the Commission; and in the answer of the Equity Sub-Committee of the same Association to the queries propounded in the circular letter of the Commission. The Equity Committee of the Incorporated Law Society suggest only, that a saving of time and convenience would result, if a plan, such as that now proposed, were adopted.*

8. These objections may be classed under three heads,—1st, an alleged waste of money in the amounts represented by the broker’s charge and the turn of the market; 2nd, want of security; and, 3rd, loss of time.

9. I. The subject of the first head, waste of money, is especially noticed in the memorial and observations of the Law Association, as involving a probable loss of 20,000*l.* a year. This statement is not supported by data or calculations, nor has any evidence been tendered to us of the grounds upon which an allegation, so important in its bearings upon the point at issue, is made. The loss in question or, more properly speaking, the expense supposed to be unnecessarily incurred, was estimated by Mr. Barnes also, in his evidence (22nd February 1848) before the Select Committee of the House of Commons on Fees in Courts of Law and Equity, at 11,000*l.*, upon an assumption of the fact, that the broker, in his purchases and sales, deals with two different persons. I have ascertained from the broker to the Court, and by inquiry of several other leading brokers on the Stock Exchange, that the statement contained in Mr. Parkinson’s paper (No. 4) is quite correct, namely, that, generally speaking, when the amount of stock to be purchased is large in proportion to the amount to be sold, and conversely, both commissions are executed at one and the same price. The question of the brokerage also is fully discussed in the same paper; and I am not aware of any evidence before us which would entitle us to set aside Mr. Parkinson’s statement, that an account taken of the actual transactions of the months of January, February, and March of the past year, in the three principal stocks, would limit the apparent advantage in figures, to 513*l.* 17*s.* 6*d.* with more than counterbalancing disadvantages per contra.

10. II. The want of security imputed to the present system of dealing through a broker for each separate purchase and sale is not made out to my conviction in the paper of the Metropolitan and Provincial Law Association. The statement is, that “the perfect fairness with which the sales and purchases are conducted is not questioned, but security is wanted to prevent undue advantage being taken of the fluctuation of the price of stock during the day, or of the power of influencing the market. The minds of the suitors and public should be relieved from uneasiness or suspicion on so important a point. Unfairness should be shown to be impossible.”

11. We have no evidence before us of any uneasiness or suspicion existing in the minds of the suitors or the public upon the points here referred to. The suggestion seems to me to be founded on an idea, that the daily operations of the broker invest him with a power of influencing the market, which might be used for personal purposes, and that the extent of his orders, necessarily known to other persons before they are communicated to himself, may possibly place the means of making illicit gains in the hands of those persons.

12. Upon this branch of the subject also I have made extended and careful inquiry, and have ascertained beyond question, that the Chancery business is not considered to confer on the broker any special or peculiar power whatever over the market; and consequently, that the idea of any official knowledge of the orders which the broker is about to receive being of any personal value to its possessor, so far as the market is concerned, in reference to other transactions, is altogether illusory.

13. The distinctive functions and business relations of the broker and jobber, *inter se*, on the Stock Exchange, and with the public, seem to be somewhat lost sight of in estimating the risk, to which the suitors’ interests are supposed to be subjected by the present system of individual purchase and sale. By custom and rule on the Stock

Exchange, the operations of the broker are limited to the simple functions of purchasing and selling for other persons, whilst the jobber makes his gains by purchasing and selling stock on his own account for his own profit. The facility of checking the broker’s transactions by comparison of his prices with the prices of the open market, as quoted from hour to hour, is alone an ample protection to the suitors’ interests; but no better security for those interests, as it appears to me, can be found, than in the selection by the Accountant-General of a gentleman to act as broker to the Court, whose position, influence, and character on the Stock Exchange, must always be, as they are at this time, sufficient guarantees for the faithful performance of his service.

14. Moreover, in considering the policy of any change of system, the subject must be regarded from all points of view. If the existing system is open to any question of private motive or advantage, it must be inquired whether that proposed to be substituted for it is free from that objection? I am not able myself to answer that question in the affirmative. The present system of purchase and sale is simple and natural; that proposed to be substituted is artificial and complex. Under the present system, every person interested in funds under the charge of the Court has his voucher, and the nature and course of every transaction in his money are open to him. This will cease to be the case in such a mode of dealing as is proposed.

15. Any transaction not direct and simple suggests suspicion, and in the transactions of ordinary life such a course of dealing is always avoided. A merchant or banker or any other fiduciary, if directed to buy or sell stock or securities for his constituent or customer, does not do so from his own funds and securities, or on his own account. He goes into the open market, not because he could not or would not deal as fairly or satisfactorily by his constituent, in supplying him out of his own securities in the case of purchase, or in taking the securities over on his own account in case of sale, but because such a course of dealing would be open to question. In the case of a systematic dealing by the Accountant-General, in the mode proposed, the course of his transactions might not be open to identically the same class or degree of doubt or suspicion; but it could not be wholly free from it, and on that ground I think it objectionable.

16. III. The loss of time incurred in perfecting the stock transactions of the Court is divisible into that which may take place before the order reaches the Accountant-General’s office, and that which may ensue after it has become his duty to give effect to the order. It is with the latter only that we have to deal at present.

17. The course of procedure in obtaining and acting upon an order for the purchase or sale of stock is described in Mr. Rogers’ paper, annotated by the Accountant-General, and in the official statement tendered by the latter in evidence to the Commission. It does not appear to me that the time consumed in carrying the business through the Accountant-General’s Office is unreasonably long, as compared with that in private cases, when we consider the forms which must necessarily be submitted to, in the office itself, in protection of the suitors’ interests, and at the Bank, in protection of the interests of the public and of its own responsibilities.

18. We learn from the Accountant-General that the delay does not in any case exceed six days, that in most cases the shortest time taken is three days, and that in urgent cases a purchase or sale has been completed on the day after it has been bespoken. At the Bank, as is well known, four days only in the week, Tuesday to Friday inclusive, are assigned for the general transfer of stock, Monday and Saturday being necessarily reserved for perfecting the record of the transfers, though transfers may be made even on those days by payment of a fee. The Accountant-General attends at the Bank to accept and make his transfers on Tuesday and Friday, but his official convenience will not, as it appears, permit him to do so, (as a rule), on two consecutive days.

19. I propose now to consider the plan specifically suggested in the 3rd and 4th Resolutions, namely, the employment of the stocks in Fund A. on the books of the Accountant-General, for the working or “jobbing account” of the Court, proposed in the Bill introduced into the House of Lords by Lord St. Leonards, before referred to.

20. Neither the Metropolitan and Provincial Law Association nor the Incorporated Law Society have presented the Commission with more than an outline of the suggestion now formally recommended for adoption; but Mr. Parkinson has devoted much time and attention to an elucidation of the results, which would probably attend its substitution for the system of purchase and sale in each individual case, as now in force. I have read this paper

* I may refer also to Mr. Flower’s letter addressed to the late Lord Chancellor in 1859.

with great care, and the conclusion I have arrived at is, that so far from the change being productive of any saving, it would, on the whole, be followed by considerable loss.

21. Appended to Mr. Parkinson's paper, No. 4., is an account of the totals of the commissions in the three principal stocks, executed by the broker during the first quarter of the past year, 1861. I have had the purchase and sale prices of the actual daily transactions in Consols furnished in this account carefully collated with the medium prices reported by another broker, and returned from day to day by the Bank to the Treasury, for other purposes, and find that out of 63 days on which a purchase of Consols is recorded, the actual price paid was,—

On 34 days, one-eighth per cent. higher	} than the Bank return.
9 „ one-quarter „	
2 „ one-eighth lower	
23 „ the same as the Bank return.	

And that of 62 days on which a sale of Consols is recorded, the actual price obtained was—

On 18 days, one-eighth per cent higher	} than the Bank return.
4 „ one-quarter „	
13 „ one-eighth „ lower	
27 „ the same as the Bank return.	

It does not appear, therefore, that any great amount would have been saved on the purchases by the change proposed; whilst on the sales, money would actually have been lost, supposing the daily transactions to have been of equal amount.

22. But the most objectionable feature, to my mind, of the proposed "Stock Exchange Account" of Lord St. Leonards' Bill, and "Jobbing Account" of the Law Association, is the speculative character of the functions which must necessarily become vested in the Accountant-General, or other officer of the Court entrusted with the practical management of the Suitors' Fund. Experience has shown, that the purchases on account of the suitors generally predominate largely over the sales (the excess in 1860 being not less than 1,600,000*l.*) Consequently, as the stock on the "Jobbing Account" becomes gradually reduced in amount by the operation of the excess, it will be necessary to replace the deficiency by periodical purchases, in order to meet the demands imposed by the Legislature upon the income of Fund A., for payment of various salaries and compensations. It is manifest that the income will suffer to the extent of the interest lost on the constantly accruing excess of stock carried over from the "Jobbing Account," unless the loss be immediately made good by purchase in the market, which in effect is the system now pursued in another form, whilst Mr. Parkinson's last paper (No. 12), shows very clearly, that, on the footing of a replacement made on the 1st day of the month, an actual loss on the principal amount of stock would have been sustained, upon the transactions for October, November, and December 1851, quoted by him in the paper last referred to.

23. It was remarked in conversation, that this loss may have been fortuitous, that probably by selecting any other day than the 1st December, for the replacement of the stock lost by carrying over, a different result might have been arrived at. I can conceive no more striking illustration than this suggestion affords of the speculative character which would thus be imparted to the stock operations of the Court. At present the interests of individual suitors, with regard to the investment of their monies, are in their own discretion, under legal advice, subject to the direction of the Court, and the Court acts as the public trustee, under well known and understood rules. In the new state of things, the Court would be charged with the speculative duty of preventing losses and making gains on its "Jobbing Account," by watching the market, and ordering its purchases of stock at such times and under such circumstances as in the judgment of its officer in that behalf would be fitting for the purpose. This duty would import a wholly new set of ideas into the mind of the Accountant-General, as an officer of the Court. He would become interested in the success of the fund, and a speculator in trust on a gigantic scale; and the successful discharge of this duty would imply the experience and judgment of a jobber, with the dedication to it, on the part of the Accountant-General, of all the time and thought devoted by a person in that class of business to his calling.

24. After the payment of the dividend, the price of stock, if unaffected by political or other considerations, gradually rises, until on the eve of the payment of the next half-yearly dividend, it has increased in value to the extent of one and a half per cent. To this consideration, as well as considerations political or otherwise, the jobber has to give

heed in working his jobbing account, and by similar considerations must the Accountant-General, as the officer of the Court, be guided, if to him be entrusted the duty and responsibility of working the "Jobbing Account" of the Court. The public at large will view with grave distrust and suspicion the substitution of a system, such as that suggested for one, which, if a little irksome, from the delays necessarily incident to the discharge of a weighty public trust, has at least the merit of simplicity and absolute freedom from any specific imputation whatever of fraud, speculation, or misconduct, in its inherent principles and on the part of those by whom it is carried on.

25. In discussing the question of saving, I have not noticed the charge, which would still be incurred by the Court in its periodical purchases of stock held for the "Jobbing Account," and in the investment of the suitors' monies in Bank, East India, or other Stock, which it is not proposed that the Court should hold on its "Jobbing Account;" neither have I adverted to the additional charge, which would be thrown upon the Court, by the transfer to its establishment of the laborious details now carried on at the office of the broker.

26. It is material, however, to observe, that so far as the power of abuse for personal purposes is concerned, which the present system is supposed by the Metropolitan and Provincial Law Association to confer on the broker, that power, would be intensified by the concentration of that officers dealings in occasional purchases of large amount, instead of being diluted into the comparatively insignificant daily transactions of the present system. The account before quoted of the commissions in respect of Consols executed by the broker in the months of January, February, and March 1861, shows the following daily averages:—

Money laid out in Consols	-	-	£13,477
Money raised by sale of Consols	-	-	2,671
Consols sold	-	-	4,622

whilst, under a system of replacing the stock lost by the carrying over, by occasional, say monthly purchases, three several purchases would have been made, viz. :—

On the 1st February	-	-	£106,118
„ 1st March	-	-	182,668
„ 23rd do.	-	-	94,508

27. It is not unworthy of remark also in its bearings on this question, that the last purchase of the Court with the general cash of the Suitors' Fund was a purchase of 214,165*l.* 6*s.* in Reduced in August 1860 at the cost of 200,000*l.*, and the last sale a sale of 221,300*l.* 3*s.* in Consols in August 1861, to provide 200,000*l.* then required to meet the probable wants of the suitors.

PART II.

28. I have now to consider—

2nd. The propriety of any alteration in the existing mode of dealing with the cash in Court not required by the Suitors to be invested.

29. It is proposed that the Sub-Committee should report,—

That it is not proposed to make any alteration where suitors do not demand an investment [on deposit account], but that it is proposed to give the suitors the option of a new mode of investment in a guaranteed fund, *i.e.*, that they shall be guaranteed the repayment of their full capital in sterling, with interest at a rate which will be sure to leave a profit to the Court (say at a rate of 2 per cent.)

30. To the general principle involved in the proposition contained in the last resolution, I could take no exception, provided, 1st. The guarantee were absolute, and sufficient in itself to secure the cash it represents; 2nd. That the guarantee can be given without prejudice to public interests in any other particular; and 3rd. That it shall be optional only for the suitors to avail themselves of the advantages of the fund so guaranteed.

31. I understand the guarantee intended to be the guarantee of an investment of the cash in Consols or other public stock, backed by a specific Parliamentary guarantee, superadded to the guarantee attaching to the stock.

32. I cannot concur in the view that Parliament should assume a guarantee involving responsibilities of a separate and distinct character. It could not properly do so, except under conditions of control or power of interference on the part of the Treasury, in the administration of the Court of Chancery, unconstitutional in itself, and which the public would view with very great jealousy and misgiving, as in-

volving a continuous system of joint speculative action on the part of the Treasury and the Accountant-General.

33. Considering the guarantee, then, to be limited to the guarantee of the investment, to what extent may that guarantee be held sufficient to justify a certain charge of 2 per cent. on its income? If 3l. per annum be a fair sum to assume as the probable income of every 100l. invested, a charge of 2l. upon that income would not appear to be excessive. It is doubtful, however, how far the apparent results would be borne out by the facts; for, if, on the one hand, the cash is to be entitled to 2 per cent. from the day on which it is paid in to the suitor's account, it is manifestly necessary, on the other hand, that the investment should be simultaneous, to preserve a proper relation between the interest gained and the interest allowed on the cash. Such daily investment, moreover, is inconsistent with "the appearance of Chancery as a dealer on the Stock Exchange," which, if objectionable upon principle in other cases, cannot be devoid of objection on the same ground in this case also. Assuming, then, occasional investments only to be made of the cash on the guaranteed account, and having regard also to unavoidable delays, and, above all, to the losses which might possibly, and would very probably, in the natural course of things, be sustained in the capital of the Guaranteed Fund, from the necessity of sales at inopportune periods, I cannot think that the proposed guarantee would suffice for the intended purpose of securing the suitor's cash, and paying him an interest at the rate of two per cent. per annum. I do not mean to conclude that such an investment might not realize a result favourable to the guarantor, but it is obvious, that to do so the account must be watched and worked with constant skill and care, and that even then a war or other political disturbance might at any moment, by the large consequent fall in the value of the investment, co-operating with the constant necessity to convert and realize, create a loss to the nation, which must be made up at the national cost.

34. In dealing with this proposition I have considered it quite irrespectively of the Sutors' Cash (Fund A.) already in Court, and the annual produce (Fund B) appropriated to other purposes under various Acts of Parliament, and about, as I believe, to be dealt with again by Parliament in the ensuing session, in the settlement of financial arrangements connected with the proposed measure for the concentration of the Law Courts. Neither have I noticed other points dealt with in the statement of the Law Association, belonging properly to parts of the general subject not immediately referred to the Sub-Committee.

R. W. CRAWFORD.

Old Broad Street, Jan. 8, 1862.

STATEMENT (No. 2) by MR. CRAWFORD of the REASONS WHY HE DOES NOT CONCUR in the REPORT MADE BY HIS COLLEAGUES in the SUB-COMMITTEE, upon the Matters referred by the Commission to the Sub-Committee on the 13th June 1861.

PART I.

THE Report considers, first, the question of the mode of dealing with the cash in Court not required by the suitors to be invested, and recommends. 1st. The establishment of a "Deposit Account," the monies upon which shall be guaranteed as to the principal, and be entitled to interest thereon at the rate of 2 per cent. per annum. 2nd. It proposes, that cash now in Court may upon application, and that all cash hereafter paid into Court, with the exception of Parliamentary Deposits and monies for which investments may be bespoken, shall as of course be treated as "Cash on the Deposit Account;" as well as all monies coming into Court under the Trustees Relief Act now invested in stock under an order of the Court, and the Dividends of stock representing legacies, paid in under the Infant Legacies Act. And 3rd. It recommends that the interest, allowed on the cash on deposit, shall be charged upon the Dividends of the Stocks of Fund A., the Capital of the Deposits remaining guaranteed under the provisions of the Act 1 & 2 Vict. c. 54. s. 5.

2. The object which the Report professes to have in view, namely, the benefit of the suitors in the Court, would commend itself to favourable consideration, if it could be accomplished with perfect safety, and without detriment to any other public interests which would be affected by it.

3. It appears to me, however, that the object cannot be

attained in the manner proposed, either with the safety required, or without considerable detriment to other important public interests. I may refer, for instance, to the proposed appropriation by Parliament of Fund B. to the plan for the concentration of the Law Courts; a measure of the highest public interest, but which cannot be carried into effect consistently with a proposition, which, for the reasons I will state, would, for the purpose of accomplishing an object not in contemplation when Fund B. was created, make the maintenance of that fund, as a guarantee for the return of the suitors' monies invested in Fund A., of very much greater importance for that purpose than it now is.

4. Fund B. was established as a collateral Guarantee Fund, to ensure to the suitors the due return, when called for, of their cash laid out under parliamentary authority in the Stocks held on Fund A. Now, the Stocks standing to the credit of Fund A. would produce all the cash that has been invested in its purchase, if sold at an average price of 86·897, say 87 per cent.; a fact which justified the Commissioners for the concentration of the Law Courts in recommending Parliament to assent to the appropriation of Fund B. towards the cost of the building, and to transfer to the Exchequer the guarantee resting upon the Fund. Accordingly in the "Courts of Justice Money" Bill such a provision was inserted.

5. The first theory of the "Deposit" plan is, the transfer to it of a considerable part, the Report says 1,500,000l., of the cash at present left by the suitors "dead and unemployed," at an annual cost of 30,000l. to be charged on the dividends of Fund A. without any resulting additional income to meet it, nor in fact any stand by to fall back upon, the whole of the income being substantially appropriated already, excepting a balance of 90,000l., in hand, to which, as it appears to me, future suitors in Court at least cannot be said to have any possible exclusive claim, as a source of supply for the interest it is proposed to allow them.

6. The next theory of the "Deposit" Plan is, that suitors will prefer to leave their monies on "Deposit" instead of investing it on their own behalf; and from this circumstance, it is assumed that an additional amount of cash, to the extent, it is surmised, of 3,500,000l., will be placed on the "Deposit" Account. If, then, this sum is to be invested in Stock to the credit of Fund A., and such investment should be made at an average price of, say, 92 per cent., the effect would be that the price below which the stock on Fund A. would not answer the possible demands of the suitors, would be raised from 87, at which it now stands, to 90, and so on in proportion as the whole investment would be augmented from year to year. In view of such a contingency the collateral guarantee of Fund B., now thought to be nominal, would become of great importance; and the State might well hesitate before accepting the liability involved in such a guarantee, even to effect an object so important as the concentration of the Law Courts.

7. Unable, therefore, to concur in the proposed plan for the appropriation of Fund B. as the guarantee for the return unimpeached of the cash of the present and future suitors in the Court to a much greater extent than at present, and for purposes not originally contemplated, I find the question in the position considered in the 33rd paragraph of my former statement, and as open now as it was then to the objections then urged against the proposition.

8. I am not in a position to judge whether the Deposit Account will be availed of by the suitors to the large extent contemplated by the Report; but, objecting as I have done to the principle of the proposed Plan, those objections would not be diminished by the prospect of an increase in the risk and uncertainty to which I consider the monies of the suitors would be exposed.

9. The objections I entertain to the appropriation of Fund B. as a guarantee for the principal of the suitors' money apply with equal force to the appropriation of the balance of cash on Fund C. as a reserve to meet the deficiencies, which it is admitted will have to be made good, in finding an interest on monies to be hereafter left uninvested by suitors, either accidentally or by design, in order not to incur the risk of a fall in the stocks. Neither can I see the propriety of exacting as a rate in aid for this same purpose "a small per-centage on all funds coming into Court," as proposed in the Report, or of using any balance there may be on the "Appeal Deposit Account" for this special purpose.

10. Another grave objection to the plan, as I understand it, is that the funds of infant legatees, and cash paid into Court under the Trustees Relief Act, which are now invested in the exercise of its duties by the Accountant-General in Public Securities, would be taxed annually under the opera-

tion of this arrangement, for the benefit of suitors generally, in the difference between the arbitrary 2 per. cent. proposed, and the interest afforded by those securities.

11. The calculation that every additional million of cash invested on account of Fund A., instead of being laid out for the suitors themselves will yield an addition of 12,500*l.* a year to the funds of the Court, will prove correct if $3\frac{1}{4}$ per cent. be received on that sum, and 2 per cent. be allowed and paid therefrom; to this profit, however, must the suitors look, if the capital be not guaranteed in some form or other, for the losses that may possibly arise from sales under unfavourable circumstances, as shown in my former statement. It must be borne in mind, also, that if $3\frac{1}{4}$ per cent. is to be received, the price at which the investments take place must not exceed $92\frac{1}{4}$ per cent. and that the stock purchased must remain in the Accountant-General's name until two dividends have been received upon it.

PART II.

12. The Report further considers the question of making any alteration in the existing mode of effecting purchases and Sales of Stock, and recommends,—(1st.) the adoption of the plan of a “*JOBING or Working Fund*,” instead of the present system of selling and purchasing for suitors on the Stock Exchange; proposing at the same time to employ for that purpose the Stocks and Securities for the time being on Fund A., already claimed as the guarantee for the cash held on the deposit account. It proposes (2nd.), the abolition of the office of the broker to the Court of Chancery, and the consolidation of his duties with those of the broker to the Commissioners for the Reduction of the National Debt.

13. My objection to these proposals, as already recorded in my former Statement, remain without change. There is a proposition, however, now added in a formal shape, to which it appears to me insuperable objections must exist.

It is suggested in effect that the “*jobbing account*” shall be common to both departments, Chancery and the Treasury, with the view of effecting a further reduction in the amount of purchases and sales in the Stock market. To whom, I would ask, is the Broker in this case, to be responsible? To the Lord Chancellor, or to the Commissioners of the Treasury? Is the officer of the Court, for such is the Broker, to be beyond the control of the Court? If not, how can a common sanction be given, or a common control be exercised by the two departments? The public will view with grave jealousy any interference, or even appearance of connexion, of the Treasury with the Court of Chancery, especially in financial matters.

14. The voluminous returns recently made to the Commission confirm substantially the views expressed in my former statement.

15. With respect to the advantage which it has been assumed would accrue in the saving of the “turn of the market,” it appears from Mr. Mortimer's return now before the Sub-Committee, that in the year 1860–61 Consols were bought for the Accountant-General on 189 days, and that the prices paid were:—

On 93 days $\frac{1}{8}$ per cent. higher	} than the Bank return.
“ 7 “ $\frac{1}{4}$ “ “	
“ 3 “ $\frac{1}{8}$ “ lower	
“ 86 “ the same as the Bank return.	

And that Consols were sold also for the Accountant-General on 189 days at prices,—

On 40 days $\frac{1}{8}$ per cent. higher	} than the Bank return.
“ 3 “ $\frac{1}{4}$ “ “	
“ 40 “ $\frac{1}{8}$ “ lower	
“ 106 “ the same as the Bank return.	

In the former case there are 14 days on which two prices are recorded, arising probably from a commission having been given late in the day, as a matter of urgency, and on these days it appears that the prices given were:—

On 10 days $\frac{1}{8}$ per cent. higher	} than the Bank return.
“ 4 “ $\frac{1}{4}$ “ “	

And in the latter case, 12 days, when the prices obtained were—

On 5 days $\frac{1}{8}$ per cent. higher	} than the Bank return.
“ 1 “ $\frac{1}{4}$ “ “	
“ 6 “ $\frac{1}{8}$ “ lower	

16. Following up my former argument as to the risk of loss in replacing the amount of stock parted with from time to time through the general excess of Purchases over Sales, I have carefully examined the Return (C.1) of transactions in October and November 1861 in the papers recently sent

in, and assuming another principle, namely, a replacement of the Stock so parted with, whenever the deficiency would have amounted to 200,000*l.*, and also immediately before the shutting, in order to save the accrued interest, I find the following results:—

That the *Jobbing Account* would have—

	Increased in CASH.			Decreased in STOCK.		
	£	s.	d.	£	s.	d.
From Oct. 30 to Nov. 11	230,651	0	3	246,771	11	5
“ Nov. 11 to Nov. 26	227,654	13	9	242,097	16	10
“ Nov. 26 to Nov. 29	104,424	7	7	111,922	4	7

And that the replacements of these amounts of Stock at the medium price of the succeeding day would have left (brokerage on repurchases not being taken into account, but amounting to 750*l.* 19*s.* 9*d.*)—

	£	s.	d.
From the 30th October to 11th November a loss of	-	-	1,314 5 3
From the 11th November to 26th November a loss of	-	-	219 18 0
			1,534 3 3
From the 26th November to 29th November a gain of	-	-	756 8 4
Or a net loss of	-	-	£777 14 11

notwithstanding that the last purchase would have been made at a temporary reduction of $1\frac{1}{2}$ per cent. in the price caused by the affair of the “Trent.”

17. The advantage or otherwise to the suitor individually from the adoption of the “*Jobbing Account*” may be illustrated thus:—

As to Purchases.

From 30th October to 29th November the Cash invested was 620,601*l.* 12*s.* 4*d.*; the Stock purchased was 661,185*l.* 15*s.*; average price, 93*l.* 86*l.* or 93*l.* 17*s.* 2*d.* per cent.; whilst the equivalent carried over from the “*Jobbing Account*” would have been 662,632*l.* 2*s.*

Average price, 93*l.* 657*l.* or 93*l.* 13*s.* 2*d.* per cent.;

Or with brokerage at $\frac{1}{4}$ th per cent., 93*l.* 15*s.* 8*d.*;

giving an advantage to the suitor of 1*s.* 6*d.* per cent.

As to Sales.

From 30th October to 29th November the Cash raised was 57,871*l.* 10*s.* 9*d.*; the Stock sold was 61,880*l.* 10*s.*; average price 93*l.* 521*l.* or 93*l.* 10*s.* 5*d.* per cent.; whilst the equivalent carried over to the “*Jobbing Account*” would have been 61,840*l.* 9*s.* 11*d.*

Average price, 93*l.* 582*l.* or 93*l.* 11*s.* 8*d.* per cent.

Or deducting brokerage at $\frac{1}{8}$ th per cent., 93*l.* 9*s.* 2*d.*;

or a disadvantage to the suitor of 1*s.* 3*d.* per cent.

18. I have included brokerage under both these heads, because I find it is proposed in paragraph 57 A 5 of the Report not to give the individual suitor the benefit of the suggested saving in respect of the Brokerage charged, but “on each such sale and purchase to charge the account of “the particular suitor with such deduction to be credited “to the Suitsors’ Fee Fund as under the existing system is “borne by him.”

19. I may point also as objectionable to Clauses A 6 and A 7 of the same paragraph, which propose to substitute for the Order of the Court the “sanction of the solicitor to the “Suitsors’ Fund,” or some audit officer, “to be appointed “in the case of sales to be made of the securities held on “the Suitsors’ Stock and Cash Account,” and the further recommendation “to place the Accountant-General in respect of investments” under inspection of the said officer.

CONCLUSION.

20. For these reasons, and for those assigned in my former statement of the 8th January, I am unable to concur in either of the proposals of my colleagues on the Sub-Committee. At the same time, however, I desire to remark that these opinions and those of my two colleagues are but the opinions of individuals, and that in my judgment the officers of the Court of Chancery, the Broker, and others whose functions or position the changes proposed would affect, ought to be afforded ample opportunity of appearing personally before the Commission and stating their opinions upon the matters in question.

Old Broad Street,
July 7th 1862.

R. W. CRAWFORD.

No. XVIII.

COPY of the STATEMENT of the BALANCES of the SUITORS' STOCK and CASH in the COURT of CHANCERY on the 1st October 1862, as transmitted to the Lord Chancellor by the Bank of England.

Bank of England, October 1, 1862.

This is to certify that the following Sums of Cash and Securities, with other Effects belonging to the Suitors of the High Court of Chancery, are this day standing in the Books kept at the Bank, in the name of WILLIAM RUSSELL, Esq., Accountant-General of the said Court, in trust and to the credit of the several Accounts of the said Suitors, and which have been compared with the Books kept for the Suitors at the aforesaid Accountant-General's office, and agreed therewith.

	£	s.	d.
Total amount of the Suitors' cash	2,864,603	6	7
Cash laid out pursuant to several Acts of Parliament	2,264,744	1	10
Cash in the custody of the Bank	599,859	4	9
Bank 3l. per Cent. Annuities	39,703,021	9	7
Reduced Annuities	7,270,841	12	6
New 3l. per Cent. Annuities	5,722,414	5	3
Exchequer Bills	314,400	0	0
Bank Stock	547,357	7	5
East India Stock	198,776	2	7
New 5l. per Cent. Annuities	4,217	19	5
New 3l. 10s. per Cent. Annuities	4,369	18	5
New 2l. 10s. per Cent. Annuities	14,550	0	0
London Dock Stock	74,419	18	11
East and West India Dock Stock	33,825	13	9
Royal Exchange Assurance Stock	3,470	16	2
Hudson's Bay Stock	1,015	0	0
London and North-western Railway Stock	18,355	10	0
St. Katherine Dock Stock	14,950	0	0
Consolidated Stock East India Railway Company	3,470	0	0
India 5l. per Cent. Stock	12,399	9	2
Annuities for terms of years ending 10th October 1864	35	0	0
Annuities for 30 years from 5th April 1855	804	1	3
Notes, Bills, and Private Bonds	27,188	2	10
Mortgages	4,732	11	8
Globe Insurance Shares, 24 Shares of 100l. each.			
Westminster Chartered Gaslight Company, 2 Shares of 50l. each.			
East India Company's 4l. per Cent. Transfer Loan, 103,925 Rs. 10 An.			
Exchequer Orders, 5l. per Annum.			
	£54,574,474	3	8

The following Articles, the value of which is not ascertained, belong to the under-mentioned Matters and Causes:—

- Matter.—Anonymous, a box containing jewels.
 „ Bariatinsky, Princess, a box labelled “Jewels.”
 „ Colman, Geo., a paper said to be his will.
 „ Fludyer, Sir S., five chests and one box, marked “Plate and jewels.”
 „ Gliddon, G., a box marked “Foreign securities.”
 „ Holmes, John, estate, &c., a box marked “Foreign securities.”
 „ Wakeman, M. T., a box marked “Plate, jewellery, and trinkets.”
 Causes.—Blount v. Nolan, Trusts, &c., a box marked “Foreign securities.”
 „ Davies v. Hallett, a parcel marked “Shares, &c.”
 „ Greville v. Greville, P. E. J. Greville, a box marked “Securities.”
 „ Greville v. Greville, E. E. Dawson, a box marked “Securities.”
 „ Greville v. Greville, Baroness de Cetto, a box marked “Securities.”
 „ Giles v. Pressey, a box marked “Securities.”
 „ Jones v. Lloyd, a bag of clipped money.
 „ Secretary of State, &c., India v. Meffan, a box marked “Foreign securities.”
 „ Kell v. Charman, a box marked “Securities.”
 „ May v. Da Costa, a debenture deed.
 „ Nixon v. Few, a box marked “United States Bank shares.”
 „ Pritchard v. Fleetwood, a deed of settlement.
 „ Reeve v. Hancock, two boxes of plate, Nos. 1 and 2.
 „ Sidebottom v. Butterworth, a box marked “Securities.”
 „ Stephens v. Green, a box marked “Securities, &c.”
 „ Stacpoole, Duchess, v. Lodge, a box marked “This cause.”
 „ Taylor v. Hall H. Armytage, a box marked “Railway stock.”
 „ White v. Killersby, five tallies.
 „ Warren v. Daly Residuary Trust, a box marked “Foreign securities.”

(Signed) G. E. GRAY,

Accountant-General to the Governor and Company of the Bank of England.

No. XIX.

MINUTES of PROCEEDINGS of the CHANCERY FUNDS COMMISSION.—Thursday, 17th July 1862.

PRESENT.

The DUKE OF ARGYLL.
 LORD KINGSDOWN.
 VICE-CHANCELLOR WOOD.
 MR. CRAWFORD.
 MR. ROGERS.
 MR. ANDERSON.
 MR. COOKSON.
 MR. FIELD.

The following propositions were submitted for the consideration of the Commission:—

I. That it is expedient to establish a deposit account for Suitors' monies in the Court of Chancery; and to allow to the Sutor sa moderate rate of interest upon the monies belonging to them whilst in the custody of the Court; but without depriving them of the right to require the investment thereof at any time on their own behalf and at their own risk.

II. That in the case of purchases and sales on behalf of Suitors in the Court of Chancery, it is expedient to effect such purchases and sales through the medium of the Stocks and Securities purchased with Suitors' unemployed cash [Fund A], and of the Suitors' Cash in the Bank, by transfer in the books of the Accountant-General's office, without resorting to the stock market in each individual case.

III. That the duplicate causewise accounts kept in the Chancery Office of the Bank of England should be discontinued, and that the accounts of the Accountant-General

of the Court of Chancery should be examined and certified by an auditor appointed by the Lord Chancellor.

IV. That the practice now adopted in the Accountant-General's office in preparing cheques drawn on the Bank of England requires amendment; that every signature and counter-signature upon a cheque should be evidence of examination by the person who signs; that no cheque should be signed until it is applied for by the person entitled thereto; and that every cheque should be passed to account as soon as it is drawn and issued.

V. That it is expedient that a Branch of the Bank of England should be established in Chancery Lane.

It was resolved,—

That the aforesaid propositions be printed; and transmitted together with copies of the report of the Subcommittee appointed on the 13th of June 1861, and copies of Mr. Crawford's two Statements, to

The Lord Chancellor and the other Equity Judges,
 The Governor and Company of the Bank of England,
 The Accountant-General of the Court of Chancery,
 The Incorporated Law Society, and
 The Metropolitan and Provincial Law Association;
 and that the Governor and Company of the Bank of England, the Accountant-General, the Incorporated Law Society, and the Metropolitan and Provincial Law Association be invited to state in writing their views upon the several propositions aforesaid.

E. MACNAUGHTEN,
 Secretary.

No. XX.

COMMUNICATION from the GOVERNOR of the BANK of ENGLAND, to the CHANCERY FUNDS COMMISSION, accompanied by a MEMORANDUM respecting the Propositions submitted to the COMMISSION on the 17th of July 1862, and referred to the BANK for consideration.

Bank of England,
30th November 1862.

SIR,

In the terms of your letters of the 23rd July and 14th November, having reference to certain papers, together with minutes of the proceedings of the Chancery Funds Commission, and desiring to have the opinion of the Governor and Company of the Bank on the principles and details involved, I am directed by the Governor to enclose a memorandum which has been prepared under his instructions by Mr. Miller, Deputy Chief Cashier of this Bank; and I am to express the hope of the Governor that what is stated in Mr. Miller's paper will be satisfactory, and of use to the Commissioners.

I am, &c.

E. Macnaghten, Esq., (Signed) JAMES STEWART,
Secretary Chancery Funds Commission. Secretary.

MEMORANDUM for the GOVERNOR respecting the Propositions of the CHANCERY FUNDS COMMISSION referred to the BANK for consideration.

Of the five propositions submitted only three appear directly to concern the Bank; namely, the third, fourth and fifth.

1. The third proposes,—

“That the duplicate causewise accounts kept in the Chancery office of the Bank of England should be discontinued, and that the accounts of the Accountant-General of the Court of Chancery should be examined and certified by an auditor appointed by the Lord Chancellor.”

The first part of this proposition, “that the duplicate causewise accounts kept at the Bank of England should be discontinued,” is all that the Bank has to do with.

Before the abolition of the triplicate causewise accounts, formerly kept in the department of the Chancery Report Office, the Bank inquired into the working of these accounts with the view of discovering their value as a check: but their value in that respect was not made apparent, and they have ever since been considered by the officers of the Bank, assuming the accounts of the Accountant-General's Office to be properly kept, as a useless excrescence, involving a great waste of time and labour to all parties.

2. The fourth proposition, relating to the mode of preparing the checks drawn on the Bank, hardly seems to require any comment; but the occasion should not be lost to make such an alteration in the form of the draft as to bring it clearly within that exemption clause of the Act 16 & 17 Vict. c. 59. s. 19., by which bankers are held not to be liable to prove the genuineness of the endorsement on a draft payable to order on demand; or these orders for payment should be ordinary cheques payable to bearer, and a proper discharge of the Accountant-General should be taken at his office, at the time of the issue of the cheque, on a separate document.

3. The fifth proposition,—

“That it is expedient that a branch of the Bank of England should be established in Chancery Lane,” is difficult to discuss, because the reasons which led the Commissioners to their conclusion do not appear; and apart from those reasons there does not seem to be any advantage to be gained either to the Bank or to the Court of Chancery by the establishment of so costly an institution.

It would seem that the district is at the present moment rather over-banked than otherwise, and though there is not a bank actually in Chancery Lane, yet the following are so near as to reduce any inconvenience likely to arise from that circumstance to the smallest possible dimensions:—

Child's -	-	- Temple Bar.
Gosling's -	-	- 10, Fleet-street.
Hoare's -	-	- 37, Fleet-street.
Praed's -	-	- 180, Fleet-street.
London and Westminster,		214, High Holborn.
Ditto -	-	- 217, Strand.
Union Bank of London -		Temple Bar.
Twining and Co. -		215, Strand.

These are establishments whose respectability is beyond question, and which can afford to their customers all the advantages and facilities of which modern banking is susceptible; there can hardly then be said to be such a want of banking accommodation as would justify the Bank in opening a branch for the sake of the general business to be acquired.

The accounts of legal firms are some of them considered to be good; but they require to be well understood.

Some solicitors act almost as bankers themselves. They hold money belonging to some of their clients, which they make use of by lending to others. Some make a business of lending money on bills or notes of hand, made secure by the deposit of title deeds, or other collaterals. These notes of hand they discount at their bankers, and as a rule they are well paid and are generally considered good security, though not such as would suit the Bank of England which seeks a business of a less complex character.

There does not, therefore, appear to be any inducement to open a branch in Chancery Lane, beyond that of affording to the Court of Chancery the means of effecting its receipts and payments on the spot instead of in the city.

This, it is believed, might be accomplished by very simple means, if a proper office for the payment and receipt of money were provided, furnished with an iron safe, and a banking counter. Two clerks from the Bank and a porter would be all the force required to make the cash payments, and take such receipts as in all probability would be tendered there. The annual payments on account of the Court of Chancery amount to between eight and nine millions. These are made on about 50,000 drafts, the greater part of which are presented by bankers. However, about 6,000 are presented by the payees, and are paid over the counter in money. These are mostly for small amounts.

The highest number paid in money in one day is about 170, amounting to 8,000*l*. That would be on a dividend day.

Two clerks could, therefore, easily make all the money payments at present required by the suitors of the Court of Chancery.

It must not be lost sight of, however, that in order to provide each day for all reasonable contingencies, and to be enabled to afford to the suitors the same advantage they enjoy at the Bank in the variety of money at their choice, it would be necessary to furnish the clerks with a till much larger than any demand likely to be made upon it; say from 20 to 30 thousand pounds.

This is a point which would have to be considered in the settlement of the compensation for the duty to be done, if the present arrangement is to be disturbed.

4. Mr. Anderson in his paper states that the expense of the duplicate system is 9,000*l*. a year, and he appears to have gained that impression from a rough estimate of the profits derived by the Bank from keeping the Chancery account.

The estimate was that the average balance of the last six years 600,000*l*. would yield a gross profit of 9,000*l*. per annum; and that the expenses actually incurred in conducting the Chancery business amounted to 7,500*l*.; leaving a net sum of 1,500*l*. to cover all risk, and to indemnify the Bank for its pains and labour.

The expense of the duplicate accounts at the Bank is 2,200*l*. a year.

The cost of two clerks and a porter to Chancery Lane would be about 700*l*. a year, besides carriage and risk.

To cover the bare expenses, therefore, there should be a payment of 5,300*l*. a year; adding to that the new expense of the clerks to Chancery Lane 700*l*., we get a sum of 6,000*l*., which would leave nothing for profit or risk, or pains and labour.

(Signed) W. MILLER.

Bank of England,
25th November 1862.

No. XXI.

COMMUNICATION from the SECRETARY of the METROPOLITAN and PROVINCIAL LAW ASSOCIATION respecting the Propositions submitted to the CHANCERY FUNDS COMMISSION on the 17th of July 1862, and referred to the METROPOLITAN and PROVINCIAL LAW ASSOCIATION for consideration.

Metropolitan and Provincial Law Association,
SIR, 25, Chancery-lane, Dec. 23, 1862.

1. The Managing Committee of this Association have reconsidered, in connexion with the papers accompanying your communication of the 23rd July last, the “Observations

and Suggestions” of their Equity Sub-Committee already laid before the Chancery Funds Commissioners, and I am now instructed to inform you that the Committee see no reason to change the views there expressed.

2. Referring to Proposition 1, which declares the expe-

diency of establishing a Deposit Account for suitors' money in the Court of Chancery, the Committee are unable to give a very confident opinion as to what proportion of the money paid into Court would be placed to such a Deposit Account if it existed, and what proportion would still be invested in Stock.

3. Solicitors, by examining their Cash Books, can ascertain the monies which they have paid into Court; but it frequently happens that Solicitors who pay money in have not any materials in their offices enabling them to state whether such monies were afterwards invested, or whether they were allowed to remain in Cash. The Solicitors who obtain the Orders for investment are usually the Solicitors of the Plaintiffs in the suits, and do not represent the parties who pay in.

4. The desired information, therefore, cannot be obtained by the comparatively easy process of examining the Cash Book, but would have to be sought by a detailed examination of the proceedings in every Chancery cause and matter in the office.

5. The Committee, however, after giving the whole subject careful consideration, have come to the conclusion that at least one-half, and very probably two-thirds of all the monies paid into Court would be placed to a Deposit Account at 2l. per cent., in preference to an investment in Consols.

6. They estimate this proportion on the hypothesis, which they are convinced is a sound one, that in all those cases where money is paid in only to await the decision of the Court before it is paid out again, it would be placed to the Deposit Account at 2l. per cent., and that investments in Stock would only be made where the fund is expected to remain in Court for a considerable period, as, for instance, where the income arising from it is to be paid to tenants for life, or to persons under disabilities.

Yours obediently,

PHILIP RICKMAN,
Secretary.

The Secretary of the
Chancery Funds Commissioners.

No. XXII.

COMMUNICATION from the PRESIDENT of the INCORPORATED LAW SOCIETY respecting the PROPOSITIONS submitted to the CHANCERY FUNDS COMMISSION on the 17th July 1862, and referred to the INCORPORATED LAW SOCIETY for consideration.

Incorporated Law Society, U.K.,
Chancery Lane, London, W.C.,
24th January 1863.

SIR,

THE Council of this Society have had under their consideration the propositions which were submitted to the Chancery Funds Commission on the 17th July last, and to which the attention of the Council was requested by your letter to the President of the 23rd of that month.

Owing to the absence from town during the Long Vacation of many members of the Council, some delay has unavoidably occurred in replying to your letter.

The Council have already expressed to the Commission their views upon the principles involved in the propositions; but they have had pleasure in reconsidering them with the aid of the light thrown upon them by the papers laid before the Commission by three of their body, namely, Mr. Crawford and Messrs. Anderson and Field.

The Council have sought the assistance of several Solicitors of extensive practice in the Court of Chancery, and I am now desired to inform you, as the result of the inquiries which they have instituted, and the consideration which they have given to the subject, that they approve of the several propositions referred to.

With reference to your suggestion that "with the view of obtaining a tolerably accurate estimate of the proportion of suitors' cash which would remain on a Deposit

"Account if one were established, some members of this Society should go through their books for the last two or three years, and note the proportion of the amount paid into Court by them in each year which has been invested on the suitors' behalf but which, if a Deposit Account had been opened, would probably have been placed upon it," the Council have called to their aid several gentlemen of experience, who have examined their books as suggested by the Commissioners. The result of their examination leads the Council to the opinion that if a Deposit Account were established, with an allowance of interest at 2l. per cent. on all sums remaining on that account for three months or upwards, nearly one half of the monies paid into Court during the last two or three years, which have been invested, would have been placed upon such Deposit Account. This opinion, although based on an examination of solicitors' books and papers relating to suits in which those solicitors have been engaged, is necessarily to some extent conjectural, but the Council believe it to be a close approximation to the truth.

I am, Sir,
Your obedient Servant,
WM. SHARPE, President.

Edward Macnaghten, Esq., Secretary
Chancery Funds Commission.

No. XXIII.

STATEMENT on the Part of the ACCOUNTANT-GENERAL in reference to the PROPOSITIONS submitted to the COMMISSION on the 17th of July 1862, and transmitted to the ACCOUNTANT-GENERAL for his CONSIDERATION.

I. 1. The first proposition upon which the Accountant-General's opinion is requested affirms the expediency of establishing a deposit account for suitors' monies. It might not be easy to discuss the expediency of such a course abstractedly and as a question of principle, but it may not be inconvenient, with a view to arriving at something like a general conclusion, to proceed at once to consider the particular course proposed by the Sub-Committee of the Chancery Funds Commissioners: indeed, by the terms of paragraph 35 of their Report, a scrutiny into the general scheme through the medium of certain rules and regulations proposed and recommended is expressly invited.

2. It is, in the first place, to be remarked that the establishment of a deposit account for suitors' monies, in the manner proposed by the Report of the Sub-Committee, would impose upon the Accountant-General a degree of responsibility not only quite new, but wholly foreign to the principles upon which his office has hitherto been conducted. The Accountant-General's duties are to carry into effect the orders of the Court by receiving the funds which the Court may take under its control, and distributing them according to the directions contained in the orders. The specific amounts to be dealt with by him are expressed in the order, certificate, or affidavit upon which he has to act. The only exceptions to this rule are in the course he pursues as to dividends received for him by the Bank upon stock standing in his name, in which case he apportions the amount of dividend among the various accounts in his books, according to the amount of stock upon each, and as to income tax upon periodical payments, which he is directed by a General

Order to deduct. In both those cases, however, the operations are simple, and although occasioning a great deal of labour, they are easily susceptible of being checked. The amount of stock standing in the name of the Accountant-General on a certain day determines the amount of dividend to be received by him, and the addition of the several amounts apportioned to the various accounts must, if they have been correctly calculated, make up the total amount of the dividend. The deduction of the income tax is much facilitated by using tables.

3. With regard to the interest to be allowed upon the "cash on deposit," it being obviously necessary to determine some period from which it is to begin to run, it is according to Rule 2 to commence "on the 1st day of the month succeeding the day of deposit," and to cease, according to Regulation 3, "on the last day of the calendar month preceding the date" of the order for payment out or investment. Also, by Rule 3, "on the 1st October in every year interest on such cash on deposit as is then entitled to interest is to be calculated to that day, and be added to, and become part of the principal money." The interest that may become due upon the deposits is to be charged upon the suitors' fund (par. 31).

4. Now, in order to ascertain how much interest would be due on any amount of cash on deposit, regard would have to be paid to the period when it came into Court, and the length of time it had remained. An examination of the account on which the amount stood would have to be made to ascertain those particulars, and also to see whether there had been any dealings with any part of the money since it

was placed on deposit. In cases where payments in might be expected to be numerous, such as accounts containing purchase monies for estates paid in from time to time, the examination would be a troublesome matter, and would give rise to a good deal of calculation. It might also often lead to error without the opportunity of checking it, because, unlike stock, the amount of cash on deposit would not of itself enable the amount of interest to be calculated, as the element of time would always have to be taken into account. The annual appropriation of interest contemplated in Rule 3 would throw an enormous quantity of work of the same kind upon the Accountant-General's Office, if the deposit account were to assume the dimensions contemplated by the Report. The Accountant-General would have to perform functions similar to those of the National Debt Commissioners in relation to savings banks, with this important difference, that the banks make their claims upon the Commissioners for the amount of interest due upon the money deposited with them, and the Commissioners, by comparing the claims with the results of their own calculations, have a most important check upon them. The Accountant-General would have nothing to depend upon as a check upon his calculations, and yet they would often be the basis of his own and the Court's action.

5. The Accountant-General must here strongly protest against the principle (apparently involved in the regulations and the note therein referred to) of his making himself acquainted with the directions contained in orders to be transmitted to him from the Registrars' Office and, to a certain extent, giving effect to such directions without the intervention of a solicitor. He has already expressed his opinion upon the proposal for transmission of the orders in his "Observations on the points comprised in the queries" contained in the circular of the 3rd May 1861," as, upon the whole, adverse thereto. But this new proposition would very much increase the labour and responsibility of his office; every order, as soon as transmitted, would have to be read through to ascertain its effect upon the funds in Court, whether it were ripe for execution or not; and the profession would probably cease to regard it as their duty to call the Accountant-General's attention to the Court's directions if in any case it were recognized as his official duty to take cognizance thereof without their intervention.

6. The Accountant-General does not consider that there are any such materials before him as would enable him to express any opinion upon the deposit plan in a financial point of view. He does not know upon what data the Commissioners have estimated (par. 32) that one and a half millions of the cash at present allowed by the suitors to remain uninvested would be placed on the deposit account; nor upon what evidence the calculations referred to in Appendix, No. 3, par. 4, rest as to the very considerable amount "which would be placed on the deposit account in lieu of being invested on the suitors' behalf;" it may be observed, however, that no notice appears to have been taken of the risk of loss which might arise, owing to fluctuation in price, from the sales of stock that would be necessary whenever the cash withdrawn from the deposit account exceeded the amount to be placed thereon. It is stated (par. 14) that reluctance to incur the risk of loss from a depreciation in the market value of stock is one of the operating causes which prevent the investment of suitors' cash on their own behalf. Now, if there is such a risk of loss in the case of those who are to receive the whole of the interest arising from the investment, will not the risk to the fund be much greater from the circumstance that instead of getting the whole interest, as the suitors do at present, it will have to pay 2*l.* out of every 3*l.* 5*s.* which it is assumed, the fund will receive in respect of each 100*l.* invested, and also 30,000*l.* per annum for interest upon balances which have hitherto been allowed to remain as part of the dead and unemployed cash?

7. It will be obvious that to work such a plan as the one proposed successfully as a financial measure, there must be the means of knowing how much of the general cash balance at any time consists of cash on deposit as that fact would be an important element in determining whether an investment in respect of Fund A. should or should not be made. It would probably be found necessary in the case of each cause or matter having cash to its credit which was to be placed "on deposit," that such cash should be carried to a separate account, with the words "deposit account" added to the title. Unless that were done there would be great danger of treating cash on deposit as cash not on deposit or the converse. A general deposit account would also have to be kept, the balance of which would, of course, always agree with the total of the balances on the several particular accounts. In considering the question of the sufficiency of the general cash balance at any time to answer the demands of the suitors, it would be requisite to know how much cash was likely to be withdrawn from "deposit"

and it would probably be found necessary to require notice of withdrawal to be given before cash which had been placed on deposit could be dealt with in order to afford time to make the necessary calculations as to the cash balance, and to effect a sale of stock if it should be required.

8. The Sub-Committee in par. 28 of their Report, state that they do not think money would be withdrawn from the deposit account and invested, when the price of stock is low. It would, however, seem more likely that cash would be placed on deposit when the price of stock might be high than when the contrary was the case. If the right to invest their cash at any time is to be preserved unimpaired to the suitors, such withdrawal may be expected to take place; but if, as proposed in the Report, the Court is to influence the matter by rendering the placing of cash on deposit in many cases a self-acting process, and in some cases a compulsory one, and by throwing impediments in the way of investment by the suitors on their own behalf, a different result may, of course, be anticipated.

9. With respect to the saving of labour and complication referred to in par. 19, of the Report, as likely to result from the establishment of the cash deposit account, it may be observed that, so far as regards the one million and a half of the cash now suffered by the suitors to lie dead and unemployed, a great deal of additional labour and complication would be caused to the Accountant-General's office; and, indeed, if the details of the scheme should come under consideration, it would probably be found from the increased number of entries to be made in the books for the purpose of keeping the amount of cash on deposit separate from the other cash, and for carrying over interest from the Suitors' Fund, from the analysis above referred to of the accounts for the purpose of ascertaining the amount of interest due, and from the constantly recurring calculations which would have to be made in respect of the "cash on deposit" account, so as to keep invested the cash not wanted to supply current demands, that there would be much more labour and complication than the present system of investment and sale occasions.

10. The suggestions (A. 6, and A. 7, of par. 57), that the Accountant-General with the sanction of the solicitor to the Suitors' Fund, or such audit officer as might be appointed should have power of investment and sale with respect to Fund A. so as to keep the cash in the bank at a sufficient amount only to meet current demands, would very much increase the responsibility of the Accountant-General, and would alter the principle on which such investments and sales have hitherto taken place. When it has been found that the general cash balance was larger than was necessary, and was likely to continue so, an investment has been resolved upon and the Lord Chancellor's Order obtained to sanction its being made. Sales of stock on account of Fund A. have been but few. The account already furnished by the Accountant-General shows that there have been but seven altogether, the first in 1844, and the last in 1861. Under the proposed system a very different state of things might be expected. There would be a necessity to invest the cash as closely as possible to prevent loss, because an increase in the general cash balance would probably cause an increased charge upon the Suitors' Fund, in respect of interest on cash placed on deposit. Also, whenever the cash to be withdrawn exceeded in amount the cash deposited to any considerable extent a sale of stock would be necessary. Both kinds of operations would thus become of frequent occurrence; the Accountant-General and the Solicitor to the Suitors' Fund (or the proposed audit officer) would be dealers in stock to an enormous amount without requiring the special authority of the Court for their transactions; and a mode of proceeding would thus be introduced quite contrary to that upon which the business of the Accountant-General's office has been always hitherto conducted.

11. The Accountant-General desires in concluding his remarks upon the first proposition, to state his opinion that the proposed new duties arising out of the establishment and working of a deposit account would not merely be onerous and difficult to discharge, but that they would be inconsistent and incompatible with the due performance by him of his duties in carrying out the money orders of the Court, they would involve a constant interruption of his time and attention, and they would require him to deal with considerations more fitted for a member of the Stock Exchange than for an officer whose duty it is to carry out, according to the principles of legal construction, the money orders of the Court which are supposed to be the clear exponents of its intentions. That, in order to fulfil the proposed duties, he should act under the control of and in combination with an officer to be appointed as suggested, would give rise to a complication of duty which would end in confusion, and probably be soon found to be impracticable. As to the ne-

cessity for, or practicability of, any audit of his accounts the Accountant-General will express his opinion in his remarks upon the third of the propositions submitted for consideration.

12. For the reasons above stated and after a careful examination of the plan proposed in the Report, he thinks that it would not be expedient to establish a deposit account for suitors' monies in the manner and upon the principles therein set forth.

II. 13. In discussing the expediency of adopting the change recommended by the second proposition, it is presumed that the plan proposed to be considered is that contained in Messrs. Anderson and Field's Report, par. 57. That plan may be shortly stated to be as follows:—Instead of effecting the purchases and sales of the suitors in the usual manner, by buying and selling stock through the medium of a broker at the current market price the Accountant-General is to act as a stock jobber, exchanging stock for cash and cash for stock, and using as his basis of calculation the average price to be furnished to him daily by the Bank of England.

14. The only sources from which any pecuniary advantages could be derived if the plan were adopted, must be in respect of the better prices at which the exchanges would be effected as compared with the prices given and obtained for the stock that would otherwise be purchased and sold, and from any saving which might be made in the remuneration now received by the broker for effecting the several purchases and sales.

15. Both these points have undergone careful consideration. As to the relative prices the paper No. 12 furnished to the Commissioners on the part of the Accountant-General shows that, supposing the plan to have been in operation in the months of November and December 1851, the average gain to the suitors calculated upon the sum total of their investments during that period, which exceeded half-a-million of money, would have been scarcely more than 4d. in the 100l., or 1-60th per cent.; and that upon the sales of stock made during the same period amounting to upwards of 146,000l., the gain would have been about one shilling and fourpence in the 100l. or a little more than 1-16th per cent.

16. Similar calculations have been made embracing another period. From the Return (C. 1) of transactions in October and November 1861, furnished by the Accountant-General at the request of the Commissioners, it appears that there would have been a gain to the suitors in respect of their purchases of *one shilling and sixpence* per cent., and a loss to them in respect of their sales of *one shilling and three-pence* per cent.

17. Now it might probably with justice be argued that no pecuniary advantage to one class of suitors could justify the adoption of a plan which would be accompanied with loss to another class, even if only one instance of such a result could be adduced. It may, however, be expedient to show what would have been the effect of the plan upon the relative prices during a longer period. The Return made for the Commissioners by Mr. Mortimer, the stockbroker, in which the prices given and obtained by him for purchases and sales in consols during the year October 1860 to October 1861 are contrasted with the Bank average prices, enables that to be done. From that Return it appears that with respect to purchases the plan would have been advantageous to the suitors on 100 days, and disadvantageous on three days; as respects sales it would have been advantageous to the suitors on 40 days, and disadvantageous on 43 days, whilst, as regards purchases, on 86 days the plan would have made no difference in the prices, nor as regards sales, on 106 days. It may, therefore, be concluded that with respect to any advantage to arise in respect of price there would be no adequate general gain to justify the proposed change.

18. As to any saving that might, if the plan were adopted, be made out of the remuneration now received by the broker it has been remarked (in Paper, No. 4) that the expenses which must be incurred for a staff of officers to do the work now done by him and his assistants, and also to keep the stock jobbing account and the brokerage which would have to be paid on the purchase and sale of such stock as it would be necessary actually to buy and sell, would very much reduce the profit that might at first sight be expected to arise. Another and a very important consideration bearing upon this point, is the risk of loss likely to happen from the necessity of repurchasing stock to replenish the stock jobbing account. The subject is fully explained in the last page of the same paper, and in the paper No. 12 before referred to are some calculations showing that an actual loss of 1,748l. 5s. 7d. on this head would have been incurred during the months of November and December 1851, had the proposed plan then been in operation. It is further shown in Mr. Crawford's state-

ment, No. 2, par. 16, that the loss during the months of October and November 1861 from the same source would have been 777l. 14s. 11d., and that the loss would have been much greater but for an accidental circumstance therein mentioned. That loss it may be remarked would have been incurred in respect of recouping the stock jobbing account, a sum of 600,000l. stock, and as the whole amount to be purchased during the year for the same purpose might be expected to reach about 1,500,000l. it is evident that taking the above-mentioned items of expense into consideration there would not only be very little probability of deriving much profit from the scheme but considerable risk of loss.

19. Another point to be considered in discussing the expediency of the proposed change is the great responsibility which would be thrown upon the Accountant-General. At present the broker is the person entirely responsible for the stock transactions. He receives his commissions and effects them in the best way he can for the interests of the respective suitors, and then furnishes the Accountant-General with a contract note signed by himself, containing the price and other particulars. The calculations are checked in the Accountant-General's office, and the note becomes the foundation for the entries in the books. Under the proposed system a daily price is to be furnished by the Bank of England, and that price applied in ascertaining the amount of stock to be exchanged for cash and of cash for stock, as the case may be. The calculations will be of a much higher class than those now necessary, and the selection of the right price and the proper charging of the brokerage will require the supervision of a person of more judgment than a junior clerk can be expected to be. As the broker now personally effects the transactions he knows what the price is at which they are to be done. The Accountant-General would have no such knowledge; he would be entirely dependent upon the accuracy of his clerks in transcribing and making use of the prices transmitted by the Bank.

20. It may be doubted also whether an average price would ever give so much general satisfaction as a real price. For the purpose mentioned in par. 55 of the Report (the purchase of life annuities), where no actual conversion of the stock into money takes place, an average price seems to be the best that can be made use of. It is only a rough approximation to the value that is required, and the annuity tables show that minute differences of price are frequently disregarded. But in the ordinary transactions of buying and selling stock recourse is had to a broker in whose judgment and integrity confidence is placed, and unless very great advantages can be shown to arise from a contrary course, it would seem only reasonable that the suitors should continue to enjoy the benefits of the present system, especially as the charge which it entails upon them for brokerage is to be continued.

21. The keeping of the stock-jobbing account would impose a very large amount of additional labour upon the Accountant-General's office, in substitution, it may be remarked, for that which is now performed at the Bank of England at the charge of the public. The "jobbing account" would be the united account, so far as the Accountant-General is concerned, of all the jobbers with whom the broker would otherwise deal. The duty of investing the balance of cash from time to time on such an account, if left to the discretion of the Accountant-General, would seem to be one of great responsibility.

22. With regard to the reasons given by Messrs. Anderson and Field, in their report for recommending the proposed change, it may be observed that, in par. 53, they refer to "the objections to the present system, and the able suggestions made by the Incorporated Law Society and Provincial Law Association," and in par. 57 they characterize the plan as "recommended by its simplicity as well as by the economy of time and saving of expense by which it would be attended." Upon referring to the report of the Incorporated Law Society (Paper No. 13), it appears that they only mention "a great saving of time and convenience to the suitor." The Provincial Law Association, in their Paper No. 10, par. 4, in recommending the adoption of the plan, state, that "they are not aware of any existing securities to prevent undue advantage being taken of the fluctuation of the price of stock during the day or of the power of influencing the market." This latter point has, however, been so fully considered by Mr. Crawford in his Statement No. 1, paragraphs 10 to 15, (Paper No. 17), that it is unnecessary to make any remark upon that part of the subject. The same society, in the same paragraph (4) of their paper, state, that "if the Court were its own jobber it would get the profit." The profit referred to is the ordinary difference of an eighth between the buying and selling prices of stock; but inasmuch as in the proposed plan the Court in its capacity of jobber is to

buy and sell at *the same average price*, there will be no jobber's profit to be derived by the Court from the transactions.

23. The only recommendations mentioned or referred to in the Report that remain to be adverted to are "simplicity," "saving of expense," and "economy of time." The subject of expense has been already considered, and it has been shown that very little, if any, profit can reasonably be expected to result from the adoption of the plan. With regard to "simplicity," if the Report means simplicity of operation in the Accountant-General's office, it may at once be answered that there will be nothing to recommend the plan on that score. Instead of introducing simplicity, it will bring a great amount of complication into the system at present adopted, by making the Accountant-General perform, in some respects, the business of a stock jobber in addition to his other duties.

24. The "economy of time" is the last topic to be referred to. It has already been stated by the Accountant-General, as mentioned in the Report of Messrs. Anderson and Field, (see notes to paragraphs 43 and 46) that the time occupied in effecting a purchase or sale varies from three to six days, or, disregarding Sundays, from three to five days. It is impossible to speak with certainty of the time which would be consumed in perfecting the exchanges under the proposed plan, but it would probably be found to vary between three and four days. The saving of time would therefore be but a single day, and that saving would only apply to those transactions which are now bespoken on two days of the week (Wednesdays and Saturdays), and could surely not of itself be considered a sufficient advantage to justify so great an alteration as that proposed, especially as the same saving could be effected without any change in the present system if, as suggested in the Accountant-General's observations (paper No. 9, paragraph 1), Monday were made a public transfer day at the Bank. It must also be remarked that the adoption of the plan would not dispense with the Accountant-General's attendance at the Bank of England, as he must still go there to transfer stock to the suitors, and to accept stock brought into Court by them.

25. After giving full consideration to the subject, the Accountant-General is of opinion that it would not be expedient to effect purchases and sales of stock on behalf of the suitors in the manner pointed out in the second proposition.

III. 26. The Accountant-General has already expressed his opinion of the great importance which he attaches to the keeping an account at the Bank "causewise" of the funds belonging to the suitors, as directed by the Act 12 George 1, cap. 32, par. 2, of the paper No. 9 furnished by him to the Commissioners; as, however, the third proposition, in which the discontinuance of the duplicate account is recommended, contains a proposal that the accounts of the Accountant-General should be examined and certified by an auditor to be appointed by the Lord Chancellor, it may be as well to state, as succinctly as possible, the advantages which are derived from the present system, in order to consider whether the same advantages would be likely to result from the proposed substitution of an audit.

27. The functions of the Bank Chancery Office may be viewed under two distinct aspects:—

28. 1st. As preventing a larger amount of cash or stock being parted with than the state of the particular suitors' account will justify.

29. 2nd. As affording the most efficient means of maintaining accuracy in the Accountant-General's books.

30. 1st. The system adopted by the Legislature for preventing the funds of the suitors from being appropriated otherwise than as the Court might direct was this:—Every draft for the payment of money was to be taken with the order under which it was drawn to the Report Office. The draft was to be marked "Entd," and afterwards countersigned by a Registrar, and an entry made, in the books kept at the Report Office, of the amount of the draft and of the order. The draft thus entered and signed was to be a sufficient authority to the Bank to pay the money therein mentioned, and to write off the amount from the Accountant-General's account there. With respect to stock and securities, a certificate signed by the Registrar was to be necessary before any transfer could be made; and after the transfer was effected, the Accountant-General was to certify to the Bank and to the Report Office what he had done, that the amount transferred might be discharged out of the account kept at each of those two places.

31. It thus appears that complete provision was made for checking the operations of the Accountant-General. As to cash, there was the order to compare with the draft when it was taken to the Registrar, and as regarded stock, the Registrar himself took the initiative; whilst in both cases

the "causewise" account kept at the Report Office would enable the Registrar to know whether there was a sufficient amount of funds to effect the payment or transfer. The accounts kept at the Report Office have been discontinued since October 1852, the countersignature of the drafts by the Registrar being retained. What may be called the preventive or controlling power of the Court over the cash payments now consists of the opportunity which the Registrar has of examining the drafts with the orders when applied to for his countersignature, and the necessity of having them compared with the duplicate causewise accounts kept at the Bank Chancery Office before they will be paid. If the draft be for a regular periodical payment (of which there are more than 20,000 annually), the order is not produced to the Registrar after the first payment, and, with regard to those drafts, the Bank Chancery Office forms the only security against an account being overdrawn through an error in the Accountant-General's office, which, though guarded against as much as possible, has occasionally arisen. With regard to the sale and transfer of stock, the Registrar's certificate, which specifies the amount of cash to be raised or of stock to be transferred, and the title of the account from which the transfer is to be made, is the authority under the above-mentioned Act for permitting the Accountant-General to make the transfer. The certificate is first sent to the Bank Chancery Office for examination; the title of the account mentioned in it carefully compared with the Bank books; the amount of stock of the description mentioned in the certificate standing on the account is written in the margin, and the initials of the examining clerk added. Any discrepancy or mistake in the title of the account as quoted in the certificate, or any mistake in the description of the stock is noted, and thus a safeguard is provided against a larger amount or a different description of stock being parted with than the particular account will justify.

32. 2nd. For the purpose of maintaining accuracy in the Accountant-General's accounts, several expedients are adopted depending upon the Bank Chancery Office. Twice in each week an account is received from the Bank of the total amount debited and credited in each division of the office during the preceding half week. At the end of the week an account of the amount of the balance of cash remaining in each division is received, and a monthly account made up to the end of the month is transmitted, stating the totals of the cash paid and received, the balance remaining, and the totals of the debits and credits of the general account; that is, of the whole transactions of each division of the office. These accounts are compared with similar ones made up from the Accountant-General's books. When any difference which cannot be accounted for appears, a communication is at once made to the Bank, and the mistake corrected. Those expedients it will be perceived only ensure accuracy in the total of the entries in the books of each division. Mistakes may still exist in the particular ledger accounts, although perfect accordance of totals of the entries in the two offices may have been secured. To detect such mistakes a comparison of the balance of cash and of each kind of stock appearing to remain on each account on the 1st October is made annually. Whatever errors may have occurred during the year, either in omitting to enter a transaction in the ledger accounts, or in not entering it to the account to which it properly belongs, or otherwise, is almost certain to be discovered by means of the annual balance. It is a work of great labour and necessarily occupies considerable time, even with the advantage of the independent balances at the Bank to compare with. Without that advantage it would require a much greater expenditure of time and trouble to obtain an agreement between the total of the balances upon the several accounts, and the general balance of cash, and of the various descriptions of stocks and securities in the Accountant-General's name; and even if that agreement were obtained, owing to the probable effect of one error neutralizing another, and the posting of amounts to wrong accounts, which no system of examination can so effectually discover as an independent calculation of the particular balances, the same degree of certainty which is now arrived at, through the duplicate account system, could not possibly be secured.

33. The abolition of the duplicate set of accounts is recommended by both the Law Societies. The Metropolitan and Provincial Law Association in their observations (paper No. 10, par. 2) state that "it is not a check against fraud, and is a great impediment and annoyance to the suitors." The Incorporated Law Society in their Report (paper No. 13, par. 24) state that "a system of duplicate accounts is no sufficient safeguard against mistakes or frauds. If a mistake is made in preparing a cheque, it is repeated in the duplicate books

"at the Bank of England. Much time, trouble, and expense are consumed in keeping the two sets of accounts in exact agreement with each other without any adequate advantage." To these objections it may be replied that the duplicate system answers the purposes for which it was intended. It does not profess to be a check upon the accuracy of the Accountant-General's proceedings, so long as he does not attempt to dispose of more cash or stock than is remaining upon the particular account drawn upon. It is to some extent a safeguard against fraud, because it would require some knowledge of the title of an account, and of the amount of funds upon it, before any fraudulent attempt to obtain possession of them could be successful. As to its being "an impediment and annoyance to the suitors;" that can only be from the discovery of some mistake in the drafts, which if allowed to pass, might sometimes be productive of serious consequences; and with regard to the "time, trouble, and expense" which are consumed, it may be confidently asserted that owing to the peculiar facilities possessed by the Bank, in having the custody of the money of the Court, and being the managers of the public stocks, the duplicate system of accounts is kept more easily, and with greater accuracy there than could possibly be done elsewhere. The entries at the Bank Chancery Office are made from documents issued by the Accountant-General, not generally speaking, for the information of that office in particular, but to carry into effect the orders of the Court—the only exception to this statement being the list of acceptances and transfers of stock, which merely contain amounts and titles of accounts. The entries in the two sets of accounts are in reality made from the same materials,—*ex. gr.* the Bank entry of a cash payment from the draft itself; the Accountant-General's entry from the receipt for the draft,—the accounts should therefore be always in exact agreement. When it is discovered that there is any difference, it is easy from the daily communication which takes place between the Bank of England and the Accountant-General's Office, and the frequent personal attendances of the Accountant-General and his chief clerk at the Bank for the purpose of completing the stock transactions, to ascertain the cause of the discrepancy and to make the necessary correction.

34. The expense which the duplicate system entails is not stated in the paper (No. 5) issued by the Bank of England. Mr. Anderson appears to consider (*see* his statement, par. 35) that the 9,000*l.* a year admitted by the Bank to be received by them in respect of profit upon the Chancery balances is to be looked upon in the light of a payment made for keeping the duplicate accounts only. There is, however, no ground for such a supposition. The words made use of in the Bank statement are, "the expenses in keeping the accounts of the Court of Chancery in the two departments are 7,458*l.* per annum." One of the two departments referred to has nothing whatever to do with the duplicate system. It is a department connected with the general business of the Bank of England, and the expenses connected with it would remain if the duplicate system were entirely discontinued. The Bank Chancery Office, to which the keeping of the separate accounts is entirely confined, has a permanent staff of seven clerks, and it is apprehended that the expense of it can scarcely, if at all, exceed 2,000*l.* a year.

35. Mr. Anderson in his remarks states (par. 34) that he "is more reluctant to admit the propriety of continuing the duplicate accounts, as he is not satisfied that they afford any security which would not be more readily accomplished, and at a less cost, by a single set of books in the Accountant-General's department, examined by competent auditors who could verify every entry made in them by a comparison with the original vouchers." It will be observed that nothing is said of the "preventive" action above referred to as exercised by the Bank Chancery Office at present affording a security, which would in fact be entirely lost, if the duplicate accounts were abandoned. It is of course the essence of an audit to find out the mistakes which may have been made, whether in the transactions themselves, or in the record of them; not to prevent mistakes, except in so far that having to submit accounts to an audit may induce greater watchfulness on the part of those who have the keeping of them. But it is of the greatest possible importance, with regard to the Chancery business, to prevent, as far as may be, an error being committed; partly, because to rectify it would often in itself occasion much difficulty, but more especially because a simple mistake might, from the reliance which the Court in making its orders places upon the accuracy of the Accountant-General as to the state of the account it is dealing with, produce such a complication of error that it would be frequently almost impossible to set matters right again.

36. It may be as well to remind the Commissioners that the Court has no real knowledge of the state of an account but that which is afforded by the Accountant-General's

certificates and transcripts. Whilst the Clerks of Accounts office, in which the triplicate account was kept, was in existence the Court had a check upon the accuracy of the Accountant-General's accounts, and could know the amount of funds which in any case it had to dispose of without resorting to him, although in practice the Accountant-General was almost exclusively relied upon. The profession also frequently know but little of the exact state of accounts in which their clients are interested. It will, it is believed, be generally admitted that a high degree of accuracy has been hitherto maintained in the Accountant-General's Office; and it would seem to be of the utmost possible importance that any means hitherto found conducive to such a result, whether directly or indirectly, should not be given up without the gravest deliberation.

37. Mr. Anderson also states (par. 31) that "he is not aware of a single precedent in any public establishment in which the elaborate machinery of duplicate books is set up for the purpose of checking the correctness of the accounts." This would not seem to be a very conclusive reason for dispensing with the duplicate system unless the instance of some establishment could be adduced in which the functions performed were in every important respect similar to those of the Accountant-General, and the subject matter dealt with analogous to the property of the suitors as administered by the Court of Chancery, and no check upon its proceedings in the nature of a second or duplicate account is found necessary. The National Debt Office, both in its Annuity and Savings Banks Departments, may be mentioned as an example of a Government office, in which a duplicate system of accounts is resorted to for the purpose of preventing mistakes and maintaining accuracy.

38. Mr. Anderson further states (par. 32) that "he feels confident that if the Bank of England had been solely charged with the duty of keeping the Chancery accounts, the last measure they would have thought of having recourse to for their security, would have been that of keeping the accounts in duplicate." So certain an expression of opinion is probably founded either upon knowledge of what the mode pursued by the Bank in conducting their business is, or upon information furnished by some officer of that establishment, as to what the Bank would think it necessary to do in the supposed case. It may well be that a system of duplicate accounts may not be considered at the Bank of England an essential requisite of their book-keeping, as between themselves and their customers. But it is only in the Chancery office of the Bank that the value of the working of the present system can be properly estimated; and it is submitted that no opinion on the subject can be entitled to much weight unless formed upon a careful examination of the correlative functions of that department and the Accountant-General's office.

39. It is true that the abolition of the duplicate accounts at the Bank of England would relieve the Bank from a very great responsibility imposed on them, that of seeing that no particular account is overdrawn, but assuredly in thus relieving them a most valuable safeguard for the suitor would be parted with. It is to be observed also that whilst the Bank of England, and every other banking concern in carrying out its own special enterprise, may fairly treat the question of safety as one of profit and loss the Accountant-General having no fund available for the purpose is bound to exercise greater caution, and ought to be provided with more sure means of securing to the suitors that immunity from risk which they have under a long established system enjoyed. No manager of a banking establishment whether public or private, would willingly state the amount of losses sustained from time to time by fraud and error; whereas the Accountant-General's scanty list of such misadventures may be quoted in evidence of the safety of his proceedings. He must therefore urge upon the Commissioners the importance of continuing a system so efficacious in maintaining accuracy, as the duplicate account system has hitherto been found to be.

40. It may not be considered out of place here to notice, bearing upon the subject under consideration, the paper No. 7, printed by the Commissioners, upon the method of proceeding as to the West India Compensation Funds. After reciting the Acts of Parliament relating to the slave compensation business, and making some statements as to the Accountant-General's having appointed Mr. Neale to act as his deputy, which are not strictly accurate, as Mr. Neale was deputed to act for the particular purpose only of taking certain declarations, the paper proceeds to state "that Mr. Neale was a gentleman of great talent and well aware of the difficulties attaching to the Chancery method of dealing with the funds of the suitors, and it was understood that the system adopted with respect to the mode of operating on those accounts was framed by that officer." It is also stated, as a contrast to the Chancery

method, that there was "no separate set of accounts, but "the stock and cash were kept at the Bank on the sole "account of the Accountant-General." The implication here seems to be that Mr. Neale disapproved of the duplicate system of accounts, and that he would have dispensed with them if he could have done so, as was shown by the course he took when free to act for himself. But there is no evidence of this; nor is it shown that the requirements of the West India business rendered a check upon the accuracy of the accounts so essential as in Chancery it is found to be. In fact, there was, from the nature of the case, an absence of that complication which is found in so many of the Chancery accounts. Each of the West India accounts was accurately defined by the number of the claim, the name of the colony, and the amount of cash originally awarded to it. That amount was invested in stock, and the dividends, as they were received, were invested in the same stock, and continued to be so until the Commissioners made their award. One uniform process was thus adopted with respect to the whole of the accounts. And there was this important difference between the modes of proceeding in the two cases. The Commissioners simply adjudicated upon the amount originally awarded to the claim; they disposed of it either wholly or in part, as the case might be; they knew from their own books to what extent they had gone in dealing with any particular case and what remained for them to do, and were, in that respect, entirely independent of any information to be furnished to them by the Accountant-General. The absence of a duplicate account in carrying out the West India business would therefore furnish no conclusive argument for dispensing with it in Chancery. The fact, however, is that the course pursued by Mr. Neale does not support the implication above referred to. His knowledge of accounts and twenty years' experience in the Accountant-General's Office had made him well aware of the advantages of the duplicate system for the detection of error. He did not dispense with so valuable an auxiliary, but took upon himself personally the labour of keeping a second or check account, by which he could at any time ascertain the amount remaining to the credit of any particular claim. What may be called the primary account, now deposited in the Record Office, was kept by his assistant. After each dividend had been received and invested the two sets of accounts were compared; a difference in any of the balances indicated, of course, a mistake in one book or in the other; and an easy and effective means was thus afforded of ascertaining and correcting the error.

41. A statement, showing the mode of conducting the business in the office of the Accountant in Bankruptcy, has also been brought under the notice of the Accountant-General (No. 6 of the papers issued by the Commissioners). The fact that it has not been found necessary to continue the duplicate account system at the Bank of England, with regard to the bankruptcy accounts, will not furnish any argument for dispensing with it in relation to the Accountant-General, because in bankruptcy each official assignee keeps the accounts of the estates entrusted to his care, and the balances on them are compared periodically with those in the books of the Accountant. The paper No. 6 states that "a quarterly examination is made of the "balances upon all bankrupts' estates, for which purpose "balance-sheets are sent into this (the Accountant's) office "by the official assignees."

42. It may also be suggested as worthy of consideration that the duplicate causewise accounts kept at the Bank of England would be of the greatest possible importance, in the event of any accident from fire or otherwise happening to the Accountant-General's accounts. The inconvenience which would be occasioned to the Court and the suitors if an account of the past transactions of the Court with reference to the suitors' effects were not forthcoming can hardly be estimated. The accounts kept at the Bank of England, although not so full of detail as those of the Accountant-General (the purpose which they have to serve rendering it unnecessary that they should be so) would yet, in conjunction with the drafts and directions which are retained by the Bank, suffice for a complete restoration of the Accountant-General's accounts, and thus prevent the trouble and uncertainty which might otherwise be occasioned.

43. With regard to the practicability of an audit, if it is to be a really efficient one, if, treating the order of the Court and the other papers frequently depending upon it, and necessary to make it definitely operative upon the fund it disposes of as a voucher, the auditor is to satisfy himself that the Court's directions have been properly carried out, it may be asserted without fear of contradiction that such a scheme, even with a considerable establishment of clerks, would not be practicable without constant explanations from the Accountant-General's clerks themselves. A very

slight examination of some of the orders of the Court would make this point plain to the minds of the Commissioners. The orders are frequently, and from the nature of their directions necessarily, very complicated; they often deal with contingencies—are carried out piecemeal—give precedence to some operations over others and impose conditions to be complied with before their directions are to have effect; and it would be sometimes a difficult task, even for one of the clerks who are in the daily habit of investigating and acting upon such documents, to show that a particular operation had been duly authorized by the papers cited as the authority, until he had probably expended considerable time in making himself acquainted with the whole operation of the order under which it had taken place, in all its various ramifications.

44. It may also be doubted whether there is any necessity for such an audit. Whether, in fact, the principle upon which the business is conducted does not include as complete and efficient an audit as could well be devised. It has been already stated that every draft or direction is drawn by one of the clerks from the authority itself, and then thoroughly examined by another clerk, quite independent of the first. The authority for the transaction is also read over to the Accountant-General either by the drawing or examining clerk, so that any necessary explanation can be obtained before his signature is affixed. With regard to an examination of the accounts, or what may be called the book-keeping audit, it is submitted that the duplicate system of accounts at the Bank forms in effect the best possible audit of that kind. It is daily, and quite independent, it does not in any way interfere with or interrupt the business of the Accountant-General's office, and it performs functions in its preventive action, and possesses facilities of checking, as above stated, which could not be reasonably expected from any audit however well it might be conducted. It is a daily and not an interrupted and occasional audit, a preventive and not merely a retrospective audit, that is required for the safe working of the Court funds. The present system produced by the constant combination and intercommunication of the Bank of England and the Accountant-General's office aims at that most important object, and would seem, alike on inspection of its machinery and on observation of its results, to go far towards securing it. In almost every instance an error or mistake is detected before the fund is parted with, and therefore before the mischief is done. An officer of audit if he should discover that any error has been committed would come too late. But how is he to carry on his inquiry? If it is to be anything more than a book-keeping audit, it could only be carried on by a detailed *ex post facto* study and examination of all the orders, certificates, and affidavits which have been acted on. For this purpose the orders and other papers must either be retained or produced. The audit officer would not have the benefit of those lights which the Accountant-General's clerks acquire in the course of working the financial details of a suit; he would necessarily have to call upon them, as well as upon the solicitors engaged, to the great interruption of their duties. The general delay and inconvenience that this process would entail upon the profession and the office must have been lost sight of in suggesting the change.

45. The Accountant-General believes that a new machinery for auditing the accounts of the Court carried on otherwise than by daily communication with the Bank of England, and supported by some correct system of book-keeping there, as is now done, would be the very opposite of an improvement, and would have no certain result that could now be defined except that of the expense incurred in the salary of the officer or officers who would have to be appointed.

IV. 46. The fourth proposition contains three distinct recommendations:—

47. 1st. That every signature and countersignature upon a cheque should be evidence of examination by the person who signs. The practice of the Accountant-General's Office with regard to the preparation and signature of the cheques has been already detailed in the paper (No. 3) furnished by the Accountant-General. The cheques themselves may be divided into two great classes; those that require the order to be produced before they can be prepared, and those that do not. The 1st class includes all special payments of cash and interest money, the first payments of interest and maintenance which form the commencement of the regular periodical payments, and those investments which are required to be bespoken by the solicitor. The 2nd class consists of cheques for regular periodical payments and investments of interest under the general orders. The relative numbers in the two classes may be taken for the last year at about 18,000 in the first class, and 25,000 in the second. With regard to cheques of the first class the signature of the Accountant-General is given after examination by him, and is evidence of it. The order and other papers au-

authorizing the issue of the cheque are read over to him, and his opinion frequently taken upon points of construction and upon peculiarities which may seem to take the case out of ordinary rules. Drafts or cheques of the second class are signed by the Accountant-General upon the faith of the examination which they undergo in the office. They are prepared from a model draft taken from the first payment draft (one of the drafts of the first class) copied into receipt books, and examined by the first and second clerks of the divisions. They are taken to the Accountant-General in parcels of a convenient number, and after signature are kept in the custody of one of the first clerks. That the signature of the Accountant-General to the drafts of the second class is no evidence of examination by him is true; but it would be highly inconvenient in practice to sign them in any other way than in parcels. The regular periodical drafts go through a certain routine of operations, and, however managed, the signature will be to a certain extent affixed upon the faith that other persons have done their duties correctly. The course pursued is similar to that adopted at the National Debt Office with regard to the annuity warrants, in which certain duties in respect of the preparation and examination of them are entrusted to particular clerks, and the signature of the head of the office, the Controller, or that of his deputy, is affixed as the authentication of the instrument, and an indispensable requisite for its validity.

48. The 2nd recommendation is "that no cheque should be signed until it is applied for by the person entitled thereto." If the recommendation means that no cheque is to be signed until the person entitled thereto comes to receive it, it may be objected that, if the signature is to be evidence of examination by the person who signs, it is quite impossible to adopt such a recommendation. Are the persons who come to receive to wait while their cheques are being prepared, examined, and entered, or are the vouchers (i.e. the orders and other papers) authorizing the issue of the cheques to be brought again by the parties and the previously prepared but unsigned cheques examined before they are signed? Individuals at present sometimes express dissatisfaction at merely having to wait until those persons who have arrived before them have been attended to. The clerk who delivers the cheques has enough to occupy his attention in taking care that the signature of the person receiving corresponds with the name in the cheque or in the power of attorney, and that when the parties are not known in the office proper identification is obtained. It must be remembered that the cheques of the Accountant-General are not mere orders upon the Bank of England for the payment of sums of money to individuals. They contain the dates of the papers authorizing the payment and also the title of the cause or account out of which the money is to be paid, or in the case of long accounts such an abbreviation of the title as would accurately distinguish the account intended from any other, and frequently also particulars as to the description of the payment and the conditions to be fulfilled before the cheque is delivered. The cheques require so much care in their preparation and examination that it is often, and in times of pressure always, found impracticable to prepare them during business hours. The first and second recommendations seem to point to such a state of things as that described in Mr. Anderson's statement, par. 43, as existing at the Government Pay Office, and are no doubt very applicable to it, but they would not at all suit the requirements of the Accountant-General's Office. It may be added that both at the Bank of England and the National Debt Office the dividend and annuity warrants are prepared beforehand, and are in every respect complete in anticipation of the parties applying for them. If it be thought that the Accountant-General's cheques should contain upon them distinct evidence of their having been duly delivered to the payees and not surreptitiously obtained, that might be accomplished by requiring that the clerks who deliver them should sign their names at the bottom as a counter signature, or opposite the words "delivered by." It would, of course, have to be provided by Act of Parliament that no draft should be payable at the Bank unless so signed, and the Bank could be furnished from time to time with the names and signatures of the clerks entrusted by the Accountant-General with the duty of delivering the drafts.

49. The 3rd recommendation is "that every cheque should be passed to account as soon as it is drawn and issued." The present practice in this respect with regard to the cheques is as follows:—As soon as a cheque is drawn it is entered provisionally on the proper account as a charge. The account is not regularly debited with it as a payment until notice has been received from the Bank by means of the daily "slip" or pass-book that it has been paid. The accounts are thus kept in exact accordance with those at the Bank, and the expedients for maintaining accuracy

mentioned under the third proposition depend upon the accounts being kept in that manner. It should be remarked, too, that the cheques are void if not paid within a month after date. If presented at the Bank after that time they are refused payment. They are brought back to the Accountant-General's Office to be redated, and the parties attend again, when a fresh receipt is taken, constituting of course a reissue. The accounts would in such a case, if the recommendation were adopted, have to be credited with the "out of date," and therefore "void," drafts, to provide cash to answer the payment of the reissued drafts, thus producing a species of complication in the accounts much to be deprecated, unless some very important benefit is to be the result of the proposed change.

50. To adopt such a recommendation, without a great alteration in the course pursued in taking receipts for the cheques, is practically impossible. The cheques, as soon as they are prepared, are entered in receipt books, and a reference made upon the draft to the entry, so that it may be readily found. The reference is copied by the Bank on their "slip" or passbook, and the receipt in the book is referred to by the Accountant-General's clerk to enable him to make the journal entry of the payment. The receipt is then marked in such a way as to denote that the cheque has been actually paid. There are no means at present of knowing what cheques have been delivered during the day except an examination of the receipt books. The cheques delivered may be in any part of those receipt books which have been in use; and the entries of them could not with any degree of certainty be found unless some other mode of proceeding were adopted as a substitute for the key to the receipts now afforded by the reference on the Bank slip. If receipts on separate pieces of paper were taken for the cheques instead of having them entered in a book, the receipts could of course be so kept as to allow of a daily entry of the cheques delivered being made; or a kind of duplicate receipt might be taken from the parties to serve the same purpose. There would, however, be objections to either course: to the first on the ground of the insecurity of the separate receipts as compared with the book system, and to the latter from the additional labour and time which would necessarily be involved.

51. The object of the proposed change is not stated. Mr. Anderson appears to have foreseen an objection to it on the ground that the two sets of accounts (the Bank accounts and the Accountant-General's) would not agree; but he states that "that is not in his opinion a sufficient reason, as that agreement could be easily made by making the proper allowance for the outstanding or unpaid cheques." It is believed, however, that even if the system were so altered that the cheques delivered daily could be readily ascertained, there would still be very great difficulty in affecting an agreement between the two sets of accounts. The amount of drafts remaining unpaid must first be ascertained, and that could only be accomplished by marking off those that appeared by the Bank slip to have been paid, and picking out and adding up the remainder. The same or a somewhat similar process would have to be repeated from time to time whenever the balance of cash in the Bank had to be checked. At present the totals of the "slips" form a daily check upon the accuracy of the journal entries so that before the accounts in the ledgers are debited with the amounts paid a very good test of the correctness of the entries to be made therein has been applied. That important advantage which the present system almost naturally affords, and the means of comparing the half weekly and monthly totals of transactions mentioned under the third proposition would be lost if the proposed alteration were adopted, and to get an agreement at all between the two sets of accounts would require a complicated and troublesome operation, especially likely to be neglected in times of pressure of business, when errors may with most probability be expected to occur.

52. Apart from the practical objections to any such alterations as are suggested by this fourth proposition, the Accountant-General desires to notice a consequence involved in the adoption of any such subdivision of duty and responsibility, perhaps not contemplated, at all events not apparently aimed at, by the framers of the resolution, the merger in the new powers proposed to be given to subordinate officers of the primary and most useful functions of the Accountant-General. Of the inexpediency of any plan leading in an equal degree to such a result the Accountant-General is fully convinced. His reasons for this opinion will be found expressed more at length in the course of commenting upon a somewhat similar suggestion proceeding from the Incorporated Law Society, based upon other grounds, and pointing more directly to such a result.

V. 53. The Accountant-General considers the question of the fifth proposition involves arrangements so peculiarly affecting the convenience of the Bank of England that he

presumes the Commissioners will mainly rely in their decision upon the view which that body may express upon it.

54. In conclusion, the Accountant-General wishes to state, that whilst explaining his views upon the propositions which the Chancery Funds Commissioners have been so good as to transmit to him for consideration, he cannot but have remembered that he was canvassing the deliberate

suggestions of some of the members of the Commission; but he feels assured that he will not be thought to have exceeded his duty in expressing without reserve his dissent from propositions which he could not consider to be founded upon a just view of the interests of the suitors of the Court of Chancery.

W. RUSSELL,
Accountant-General.

*No. XXIV.

RETURN of PROCEEDINGS in the OFFICE of the ACCOUNTANT-GENERAL, for the Year ended 1st October 1862, made by the Accountant-General.

Cash Securities and other Effects paid and transferred.	Into Court.	Out of Court.	Other Proceedings in the Office.	Number.	Amount.
	£ s. d.	£ s. d.			£ s. d.
Cash - - -	9,119,368 17 1	8,957,308 2 5	Total number of Cheques signed	43,003	—
Bank 3l. per cent. Annuities	5,447,058 16 4	4,254,552 13 10	Amount of Cash Securities and other effects carried over in the Accountant-General's Books - - -	- -	1,853,150 18 8
Reduced Annuities -	674,284 13 10	569,140 6 9	Powers of Attorney issued, viz.: Impressed with 5s. Stamps -	339	—
New 3l. per cent. Annuities	1,048,794 11 9	1,033,399 6 2	Do. 20s. do. -	808	—
Bank Stock - - -	124,823 19 10	20,866 1 10	Do. 30s. do. -	2,087	—
East India Stock - -	43,653 17 7	14,764 18 2	Without Stamps - - -	12	—
Exchequer Bills - - -	496,200 0 0	454,600 0 0	Total number - - -	3,246	—
Other Securities - - -	14,175 4 10	1,152 14 2	Total number of Accounts -	24,252.	—
Total Amount of Cash Securities and other effects paid and transferred -	16,968,360 1 3	15,305,784 3 4	Amount of Fees collected by Chancery Fee Fund Stamps }	- -	652 5 0

No. XXV.

REPORT of the EQUITY COMMITTEE of the INCORPORATED LAW SOCIETY, on the ACCOUNTANT-GENERAL'S DEPARTMENT of the COURT OF CHANCERY, with SUGGESTED IMPROVEMENTS.

Accountant-General's Office, Chancery Lane,
January 1863.

SIR,

THE Chancery Funds Commissioners having been so good as to transmit to me the report of the Equity Committee of the Incorporated Law Society, I have made such annotations on it as I conceive to be essential, and have appended them to the report in the manner which I understand to suit the convenience of the Commissioners.

I have, &c.

E. Macnaghten, Esq.

WM. RUSSELL.

Secretary to the Chancery Funds Commissioners.

Observations on the part of the Accountant-General.

10th December 1861.

THE Council of the Society having referred to this Committee a communication received from the Chancery Funds Commissioners "requesting them to procure from members of the Society or a sub-committee, an expression of their opinion in reference to the matters of complaint alleged to exist in connection with the Accountant-General's department of the Court of Chancery, and the best mode of remedying the same," the Committee have considered the letter and the several statements received from the Commissioners, and have held several meetings on the subject. They have also invited the observations and suggestions of a considerable number of solicitors extensively engaged in the practice of the Court of Chancery, and proceed now to state the result of their inquiries and to offer their suggestions.

1. The Court of Chancery is in effect the trustee of all the cash and stock which are under its control. It employs the Accountant-General to keep the accounts, and the Bank of England to receive and pay the money. It deals with the cash and stock by orders made by its Judges, and drawn up and signed by its Registrars; the Accountant-General is charged with the duty of preparing drafts or directions for the payment of money by the Bank according to such orders. Those drafts, after being prepared in the Accountant-General's office and signed by the Accountant-General, are countersigned by the Registrar, who is supposed to compare each draft (except in the case of periodical payments of interest) with the original order. The draft is then presented at the Chancery office in the Bank of England and inspected there, from whence the holder is referred to the cashiers in another office who pay the amount.

2. All stock is placed in the name of the Accountant-General subject to the orders of the Court: these orders

Paragraph 2.—By the Act of Parliament constituting the Accountant-General's office, the Registrar's certificate is a

The respective departments of the Accountant-General and the Bank of England.

Observations on the part of the Accountant-General.

necessary and sufficient authority for the Bank of England and other public companies to allow the transfer to be made.

Paragraph 3.—In practice the amounts of cash and stock to be paid and transferred are often rather described than specified in the order and have to be ascertained by some other means, such as certificates of the Judges' Chief Clerks and Taxing Masters and affidavits,—these latter instruments have to be examined to see whether they are in accordance with the directions of the order. The orders themselves, frequently long, complicated, and sometimes requiring much study, have to be compared with the accounts to ascertain whether the amounts professed to be dealt with remain undisposed of, and it is also necessary to see whether the directions are consistent with one another, and especially whether the funds are sufficient to bear all the charges having an equal degree of priority which are put upon them. In addition to drawing the cheques, the Accountant-General delivers them to the right parties and takes their receipts. With regard to sales of stock the money arising thereby is paid into the Bank of England to the credit of the particular account, according to directions from the Accountant-General issued in each case.

Paragraph 4.—The preliminary requisite of the Accountant-General's privity is not here noticed. No money is received by the Bank for the Accountant-General without his written directions. They are prepared in pursuance of the order and other necessary papers. They frequently involve a good deal of examination to see that the Court's intentions as to the amount that is to be paid in, and the account to which it is to be placed, are fulfilled. The sentence commencing "Except, &c." is very inaccurate. "Discretion" is exercised in payments to survivors, persons holding and succeeding to offices as trustees, incumbents, bishops, &c., to husband and wife when the payment is before payment, in payments during minority, and in payments directed to be made to an unmarried woman and she marries subject to conditions as various in their nature as can affect property, whether held under will, deed, or otherwise.

There is also a material inaccuracy in the concluding sentence of this paragraph regarding money orders which, if not pointed out, might lead to misconception as to the duty of the Accountant-General in respect of them. When brought to the Accountant-General to act upon, it is true, that in point of form, they purport to be complete, but that does not necessarily justify the use of the word "perfected." Many money orders, and particularly such as so deal with funds as to require any complication of detail, are found on perusing and examination at the Accountant-General's office to require alteration before they can be acted upon. When an order is brought to the office it is the duty of the Accountant-General's clerks to look to all the particulars mentioned above with reference to paragraph 3. The result of this examination may necessarily be to send the order back to the Registrar, who, in many instances, then for the first time has his attention drawn to circumstances affecting the fund of which he ought previously to have been made aware.

This statement does not involve the slightest reproach on the skill or care of the Registrars of the Court; it is well known that those officers most conscientiously apply their great practical knowledge to the drawing of their orders, or to settling them when, as is sometimes the case, the minutes are prepared by counsel. But it is not to be expected that they are to combine with their other qualifications all the skill of accountants, and it may well be that in working out the detailed application of various amounts of securities and cash, they may fall into the use of expressions which would be inconsistent with the capabilities of the fund or of which the construction may be ambiguous. It becomes necessary then on the part of the Accountant-General to point out the need of alteration, and there is in such cases entire freedom of communication between the Registrars and his office. If the Registrars should be of opinion that the alteration called for needs not or ought not to be made, the Accountant-General, on being referred to, may concur with the Registrar. On other occasions the Registrar, after communicating with him, thinks it right to adopt the suggested alteration, and the Accountant-General finds this duty made easy by the subsistence of the best possible understanding. The Accountant-General is very desirous that the Commissioners should call for the production of some orders which may illustrate the truth of these observations.

Paragraph 6.—It is stated that the practice at the Accountant-General's office originated when the business was comparatively small, and that there was then ample time for the Accountant-General and the Registrars personally to discharge the duty of examination and comparison; but in no public office does or can the chief officer look into every stage of the business done. With the growth of the business and the increase of the funds of the Court, the Accountant-General's establishment and the staff of the Registrar's office have also expanded in proportion; it is true that the Accountant-General cannot personally examine all the cheques in the course of their preparation, and compare them fully with the orders of the Court, but it never was nor could have been intended that he should do so in complete detail. The examination of the orders with a

are in like manner drawn up and signed by the Registrars, and they subsequently prepare and sign a direction to the Accountant-General for the sale or transfer of the stock as directed by the order, and the Bank (in its capacity of Registrar of the Funded Debt of the kingdom) upon such direction permits the sale or transfer by the Accountant-General.

3. It is to be observed that [in theory as well as in practice] the duty of the Accountant-General, as regards the payment of cash, is to draw cheques on the Bank to be countersigned by the Registrar for payment of the amount specified in the order made by the Court and drawn up and passed by the Registrar, and to keep an account of the cheques paid by the Bank. As regards the sale and transfer of stock it is his duty to obey the order of the Court, and to employ a broker to sell the stock. Although he signs the transfer in the Bank books, the monies produced by the sale do not pass into his hands, but are paid into his account at the Bank subject to the order of the Court. In the case of purchase of stock, the Court, by its order, directs the Accountant-General to draw on the Bank for the amount of the purchase money, which is paid by his cheque to the broker upon the stock being transferred into the name of the Accountant-General.

4. The duty of the Accountant-General with respect to the receipt of cash paid into the Bank on account of the suitors, is confined to keeping the accounts of cash so paid in, which in no case passes through his hands. Except in the case of cash directed to be paid to an individual or to his legal personal representative, the Accountant-General has no authority or discretion whatever: his duty is to obey literally the directions of the Court as signified in its orders, which orders he never sees till they are drawn up and perfected.

directed to be made to an unmarried woman and she marries subject to conditions as various in their nature as can

5. It follows that after an order directing the payment of cash, or the sale or transfer of stock, has been drawn up and perfected by the Registrar of the Court, the payment, sale, or transfer ought to be carried into effect with the least possible delay, and if the order were expressed in plain and concise terms it could with perfect safety be carried into effect in a much shorter space of time than is now consumed in the operation.

6. The practice at the Accountant-General's office originated when the business of the Court was comparatively small, and when the Accountant-General and the Registrars had ample time personally to examine the cheques and compare them with the orders of the Court, and an effectual control was thus exercised. Since then the funds under the control of the Court and the calls on the time of the Registrars have enormously increased; numerous additional forms from time to time have been framed, and new modes of proceeding adopted, which in the result have increased expense and occasioned delay in the transaction of the extensive business of this department of the Court. And it does not appear that any general revision of the system has ever taken place with a view to condensing the labour, eliminating the unnecessary, and simplifying the good, parts

The system has become complicated and dilatory.

Observations on the part of the Accountant-General.

view to preparing the cheques for his signature was always a preliminary duty assigned to his clerks. The responsibility of signing them when placed before him after hearing the orders as it did with the first holders of the office. The duty of preparing drafts for continuing payments was from the first, as it is now, a duty so much in the hands of the clerks that the task of signing them was, as it is now, comparatively a ministerial duty on the part of the Accountant-General. At this day the duty of the Accountant-General, although undoubtedly increased tenfold in amount, is not beyond what can be, with ordinary competence of individual exertion, adequately discharged by one officer. The only qualification to this arises out of the somewhat inconvenient necessity of uninterrupted daily attendance at all periods excepting vacations, the want of a deputy in case of his unavoidable absence, and some unnecessary labour in the signature of certificates.

Neither "additional forms" nor "new modes of proceeding" have been adopted in the Accountant-General's office as a reference to the records in the Report Office would prove if necessary.

It is stated that no general revision of the system has taken place with a view to its improvement; but unless by the use of the word "general" a distinction can be established between the working of the whole system and of its details, as from time to time changed and improved, this allegation is inconsistent with the real history of the proceedings of the office. Looking back no further than to the last few years, the following material changes have been effected :—

The orders directing periodical payments are required to be left for bespeaking the first payment only now, instead of always being left twice, as they formerly used to be.

Interest on stock is invested continuously without request after having been once bespoken.

The clerks of Accounts Office has been abolished.

The certificates of principal drafts have been discontinued.

The time of delivery of drafts has been extended from two until three o'clock.

Single holidays have been abolished.

The services of an additional clerk in each division to attend upon the public have been given.

The stamp duty upon powers of attorney for small sums has been materially reduced.

The Bank stock order, a source of inconvenience and delay, has been virtually abolished.

In answer therefore to the statement that "the results are great and injurious delays and the absence of all effective check and control," without admitting that there are great and injurious delays originating in or caused by the proceedings in the Accountant-General's Office, the list of measures above mentioned may be referred to as showing that there has been no neglect to simplify and improve the system. With respect to the imputed "absence of all effective check or control" the Accountant-General, with a full sense of the responsibility which has long attached to him as regards the keeping of the suitors' accounts, and with such experience as he has necessarily had, desires to express his opinion that the check upon the person filling the office which he holds and upon the establishment of which he is the head is such as ought to be satisfactory to the public and practically as complete as can be observed in any great fiscal institution of the country. He does not know that there is any establishment in which malversation or neglect of duty is more effectually guarded against, and he believes that the experience of the commercial world will bear out the assertion that the unexampled security of the funds of the Court for more than a century is a sufficient pledge for the existence of effective check and control.

Whilst the Accountant-General makes these comments, he desires to take the opportunity of expressing the strong sense of the uniform assistance and support he has derived from the integrity and from the kind courtesy of the profession during a series of years. But for that integrity and for ready co-operation on the part of the solicitors engaged, the protection of the interests of the suitors would be a far more difficult task than it is. The Accountant-General, however, believes that he will have the concurrence of the profession at large in the protest which he makes against any diminution in the security against mistake and fraud now afforded by the interposition of the Accountant-General and his clerks in some such form as can now be obtained. He thinks that but for that interposition the Court, in its disposition of the suitors' effects, and the Registrars in drawing up its orders, would be liable to fall into frequent error, in some cases not to be repaired.

of the system. The results are great and injurious delays, and an absence of all effective check or control. No individual exertion can remedy these evils.

The orders read over rests as much with the Accountant-General as it did with the first holders of the office. The duty of preparing drafts for continuing payments was from the first, as it is now, a duty so much in the hands of the clerks that the task of signing them was, as it is now, comparatively a ministerial duty on the part of the Accountant-General. At this day the duty of the Accountant-General, although undoubtedly increased tenfold in amount, is not beyond what can be, with ordinary competence of individual exertion, adequately discharged by one officer. The only qualification to this arises out of the somewhat inconvenient necessity of uninterrupted daily attendance at all periods excepting vacations, the want of a deputy in case of his unavoidable absence, and some unnecessary labour in the signature of certificates.

Neither "additional forms" nor "new modes of proceeding" have been adopted in the Accountant-General's office as a reference to the records in the Report Office would prove if necessary.

It is stated that no general revision of the system has taken place with a view to its improvement; but unless by the use of the word "general" a distinction can be established between the working of the whole system and of its details, as from time to time changed and improved, this allegation is inconsistent with the real history of the proceedings of the office. Looking back no further than to the last few years, the following material changes have been effected :—

The orders directing periodical payments are required to be left for bespeaking the first payment only now, instead of always being left twice, as they formerly used to be.

Interest on stock is invested continuously without request after having been once bespoken.

The clerks of Accounts Office has been abolished.

The certificates of principal drafts have been discontinued.

The time of delivery of drafts has been extended from two until three o'clock.

Single holidays have been abolished.

The services of an additional clerk in each division to attend upon the public have been given.

The stamp duty upon powers of attorney for small sums has been materially reduced.

The Bank stock order, a source of inconvenience and delay, has been virtually abolished.

In answer therefore to the statement that "the results are great and injurious delays and the absence of all effective check and control," without admitting that there are great and injurious delays originating in or caused by the proceedings in the Accountant-General's Office, the list of measures above mentioned may be referred to as showing that there has been no neglect to simplify and improve the system. With respect to the imputed "absence of all effective check or control" the Accountant-General, with a full sense of the responsibility which has long attached to him as regards the keeping of the suitors' accounts, and with such experience as he has necessarily had, desires to express his opinion that the check upon the person filling the office which he holds and upon the establishment of which he is the head is such as ought to be satisfactory to the public and practically as complete as can be observed in any great fiscal institution of the country. He does not know that there is any establishment in which malversation or neglect of duty is more effectually guarded against, and he believes that the experience of the commercial world will bear out the assertion that the unexampled security of the funds of the Court for more than a century is a sufficient pledge for the existence of effective check and control.

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7. When the present system was originated the number of accounts was only 415; the amount of cash £152,037; and of stock £589,553. On the 1st October 1850, the number of accounts was 22,757; the amount of cash £2,821,067; and of stock £51,709,106.

8. The Committee proceed to detail *seriatim* the matters of complaint alleged by the solicitors of the Court to exist in the Accountant-General's office, and to suggest the modes which appear to them the best for remedying these complaints, and in so doing they follow the order suggested by the circular of the Commissioners of May 1861.

I. FORMS TO BE GONE THROUGH AND DEALINGS BETWEEN THE COURT AND THE ACCOUNTANT-GENERAL.

As regards the Form of Orders for paying Money into Court.

9. An order for payment of money into Court is under the present practice required in most cases: it is drawn up and entered at the Registrar's office. The obtaining and perfecting this order consumes a period varying from one to several weeks. A direction authorizing the Bank to receive the money is then bespoken at the Accountant-General's, which is ready in two days; this direction is then taken with the money to the Bank of England, and a receipt obtained from one of the cashiers, which is brought back to be filed at the Accountant-General's, and an office copy of the receipt obtained after the lapse of several days. Thus four or five days are occupied, after the order has been drawn up, by a proceeding which might be commenced and completed in one day, or at most within two days.

Delays under the present practice of paying in money.

Paragraph 10.—So much money is paid into Court to accounts already existing that it would be necessary always to examine the proposed request of the solicitor to see whether the account to which it was proposed to place the money either exactly or substantially agreed with an existing account. If it did so agree there would then be a question, whether that was intended, or whether the money might not belong to a different suit in which the short title was the same. At present the production of the orders

10. Where money is voluntarily paid into Court, it is submitted that no order is necessary, but it will be sufficient that a simple note or request in writing, specifying the account to which it is to be paid, be signed by the solicitor and countersigned by a clerk in the Accountant-General's office, to show that a duplicate has been lodged there. Where an order is required, it might, in most cases, be made at the Judge's Chambers; and the form might be simplified so that it might be ready the next day, and the

Proposed remedy. Abolition of orders on voluntary payments.

Observations on the part of the Accountant-General.

settles that question. It is probable also that great uncertainty would be experienced in the disposal of the money paid in upon request; there would be nothing upon the file of the Court to indicate the source from which it had come, and it would scarcely seem safe to make use of the money so paid in, under the words "any cash that may be "standing" now so frequently adopted in the orders.

Paragraph 12.—It is probable that very little if any time would be saved by the adoption of the proposal. A printed form is made use of at the office, and the directions are got ready by the next day but one to that on which they are bespoken. In cases of emergency they are prepared at still shorter notice. With respect to leaving the receipt at the Accountant-General's office, it may be remarked that it is done for the purpose of having it filed at the Report office, and so getting a record of the payment in of which all persons interested may avail themselves.

Paragraph 13.—The Registrars already have the power, and frequently exercise it, of adding schedules to their orders for the purpose mentioned. Reference has still to be made to the body of the order to know out of what funds the payments or transfers are to be made.

Paragraph 14.—The consent on the part of the Revenue to dispense with the stamp duty on powers of attorney would be a great boon to the suitors and involves no very great sacrifice. With respect to the form of the instrument which is to serve as an authority for the delivery of Chancery cheques, nothing falling short of the precision which marks the Accountant-General's powers ought to be used. The formalities of bespeaking them, the careful identification of the cheque as to the amount, the title of the account, and the order under which it is paid, the care in their preparation, the mode of attestation and execution, must all be taken to have conduced to the rarely infringed security with which monies have been received under them; they have seldom been the medium of mistake, and the cases in which they have been the organ of fraud are very few. It is to be observed that they are not merely an authority for the delivery of the cheques, but also for the receipt of the money at the Bank of England and for the

money might be immediately paid in, as in a Common Law action.

11. The order of the Court, when necessary, might be as follows:—

In Chancery.

M. R.	day of	1861.	Proposed form of order.
Smith v. Brown.	(1860—S—20.)		
Thos. Jones, the purchaser,	is to pay into Court on or before the day of	the sum of £4,122, for the purchase money of Lot 6 and interest, viz.:	
Purchase money Lot 6	-	£4,000	
Interest from 1 May to this day	-	122	
		£4,122	

The above sum to be placed to the credit of this cause, the sales of the real estate.

A.B., Registrar.

12. The solicitor of the party paying in the money might in all cases sign (in triplicate) a note or requisition in the following form, varied according to the circumstances, one copy of which should be left with the Accountant-General, another countersigned by the clerk of the Accountant-General should be handed to the Bank with the money, and the cashier of the Bank should sign and return the third copy to the person paying the money as a voucher for its payment:—

Requisition of the solicitor.

To the Cashier of the Bank of England.

Receive from Mr. Jones, the purchaser, pursuant to an Order dated the day of [or if there be no Order, then omitting the words *pursuant to an Order, &c.*, and stating for what purpose the money is paid in], the sum of £4,122, to be placed to the credit of the cause "Smith v. Brown," 1860—S—20, the sale of the real estate, [or as the case may be].

Purchase money	-	£4,000
Interest from 1 May to this date	-	122
		£4,122

C.D., Solicitor for the said purchaser.

For the Accountant-General,

Received £4,122 for the Bank of England,
Y.Z.

As to the Form of Orders for Payment of Money out of Court.

13. It is suggested that the order should be simplified in language, and that all directions to the Accountant-General for payment of money or transfers of stock should, as far as practicable, be specified by means of a Schedule in a tabular form, subjoined to each order, containing the names of the persons to whom payments are to be made, and the sums to be paid to each person, and that a duplicate of such Schedule should be certified by the Registrar and lodged with the Accountant-General, and filed by him:—the object being that the Schedule should be complete in itself, without involving the necessity of reference to the order. (A specimen of such Schedule will be found in the Appendix.) This duplicate should be retained by the Accountant-General. One frequent cause of delay is that the order which is required to be produced to the Registrar when he passes cheques, is either in the possession of the solicitor having the conduct of the cause, or has been lent to one of the numerous other solicitors concerned for creditors or legatees, and many days may be lost in obtaining its production, while the parties are delayed in receiving their money.

Form of orders for payment out of monies.

Copies of orders for the Accountant-General.

II. DEALINGS BETWEEN THE SUITOR AND THE ACCOUNTANT-GENERAL'S DEPARTMENT.

As regards the Expense of Powers of Attorney.

14. The expense involved in powers of attorney is very great, and where the sums are of small amount is very oppressive. In every case, whatever be the amount to be received, the Accountant-General requires that the signature of the power be verified by affidavit. No such affidavit is required at the Bank of England or in Bankruptcy. The usual cost of the power is as follows:—

Abolishing powers of attorney.

Attending to bespeak and procure it	-	£	s.	d.
Paid for it (for principal sums)	-	0	6	8
(This is reduced where the amount is under £20, to 9s.)				
Attending attesting execution	-	0	6	8
Attending, filling up, and swearing affidavit of execution	-	0	6	8
Paid oath and exhibit	-	0	3	6
Attending to lodge same and receive cheque	-	0	6	8
		£3	3	8

Observations on the part of the Accountant-General.

case an altered request would be required by the Bank. The advantage of the proposed alteration as a safeguard to be substituted for the countersignature of the Registrar is not very apparent. The Bank would have no means of knowing whether the request came from an authorized source, and any one acquainted with the practice, who might be fraudulently disposed, would have little difficulty in making his request conform with what might be required.

Paragraph 23. It is not known what machinery is referred to as "in operation at the National Debt Office." The warrants for annuities are prepared and delivered at that office in a somewhat similar way to the dividend drafts at the Accountant-General's office. Evidence of life of the annuitants is required before the warrants are delivered, and powers of attorney have to be given when the parties entitled do not wish to attend in person.

Paragraph 24.—The advantages derived from the duplicate account system are detailed in the statement addressed to the Commissioners by the Accountant-General in answer to their request for his opinion on certain points.

Paragraph 25.—A similar return to that suggested in this paragraph is, and always has been, made to the Accountant-General by the Bank of England in the daily "slip."

Paragraph 26.—With reference to the suggested delegation of some of the Accountant-General's present duties to his clerks, the Accountant-General, fully recognizing the great merits of those officers in the discharge of their laborious duties, and constantly indebted to them as he is for their co-operation, is decidedly of opinion that any such delegation of authority to them as has been suggested would be most unadvisable. Each senior clerk of a division would be the arbiter of his own practice, which might possibly become different from and at variance with that of other senior clerks; great confusion and uncertainty would follow, and the public would be losers by the change. At present the Accountant-General has centred in him an authority which enables him to preserve uniformity of practice, to support or overrule on appeal the clerks who can now follow out their duties with all the advantages which due support and proper control at the hands of their superior officer necessarily afford; they would, if the system were altered as suggested, be incessantly besieged by the importunities of those who sought for variation of practice and concession in their favour, whereas now they pursue their duties independently.

dispensed with, and the evils complained of in par. 13 will be avoided.

22. As regards periodical payments of income, a duplicate of the list of payments, which we have below suggested should be transmitted to the Bank of England from the Accountant-General's office, should be filed with the check clerk. This will enable him to examine the cheques drawn in respect of income, after signature and before payment.

Separate Department for Periodical Payments.

23. It would very much simplify the business of the Accountant-General's office, and relieve those who are at present overburdened with work and responsibility, if the payments of income were made (after the first payment) at a separate office. This would be an enormous relief (the Accountant-General says there are upwards of 21,000 cheques drawn annually for periodical payments), and the machinery in operation at the National Debt Office might be readily adapted to this purpose. The chief clerks of the Accountant-General might transmit half-yearly to the Bank of England a list of the dividends, with the names of the parties entitled to receive them. We recommend that some such course should be adopted.

Duplicate Accounts at the Bank of England.

24. It was thought that the keeping of duplicate accounts at the Bank of England would form an important check upon the Accountant-General's office; but it appears to your Committee to be virtually no check at all.

1st. There is no more necessity for the Bank of England being made acquainted with the names of the suitors to whom the money in its custody belongs, than for a private banker to be informed, when an auctioneer pays in deposits to his account, of the names of the parties entitled to such deposits.

2nd. A system of duplicate accounts is no sufficient safeguard against mistakes or frauds. If a mistake is made in preparing a cheque, it is repeated in the duplicate books at the Bank of England. Much time, trouble, and expense are consumed in keeping the two sets of accounts in exact agreement with each other, without any adequate advantage. It is suggested that, so far as regards the security of the funds, the keeping of duplicate accounts at the Bank of England in their present form is unnecessary.

25. The Bank of England should keep and return to the Accountant-General, day by day, an account of monies received and paid, as is done by the banker of a private individual.

The account might be in the following form :

Cr.	£	Dr.	£
Smith and Brown, (1860, S. 20,) of Jones, purchaser	4,122	Dyer and Salter, (1859, D. 15,) John Marks	155
White v. Black, (1858, W. 50.)		Do., T. Dry	120
R. Mason, mortgagee	1,000	Noakes and Styles, (1850, N. 21,) Abel Hobbs	300
Ford and Bridge, (1850, I. 25,) Deft. J. Bridge	200	Benson and James, (1850, B. 24,) Sarah Jackson,	54 4 6
Strong and Welsh, (1859, S. 15,) Hezekiah Smith, bond debtor	500	Bennet and Haynes, (1853, B. 10,) for £6,000 Consols	25,553 16
South Wales Railway Company, (1854, S. 42,) Lord Milford's trustees	3,000		

Duplicate books at the Bank of England no longer to be kept.

Responsibility of Chief Clerks.

26. We suggest also, looking to the enormous increase of the funds subject to the control of the Accountant-General, that it might be desirable to carry further the present system of subdivision, and to make each chief clerk directly responsible for the cheques drawn in his own division. Each chief clerk might sign the cheques in his own department, and thus the number of cheques to be signed by each would be such as would admit of careful examination.

Responsibility of chief clerks.

Observations on the part of the Accountant-General.

Paragraphs 27 and 28.—The first of these paragraphs would seem in the outset to point to some present and existing imperfection in the system as not guarding sufficiently against error, fraud, and forgery, but no list of examples is furnished in support of such an assumption, no defined substitute is suggested by way of amendment, and it is therefore impossible to consider whether the proposed audit or supervision would be an improvement of the present system. The only definition offered would seem to be contained in the phrase “persons independent of the Accountant-General.” The Accountant-General has gone at some length into the question of the practicability of an audit so to be carried on in the statement before referred to addressed to the Commissioners.

The second paragraph suggests a general superintendence over the system of book-keeping. The Accountant-General is unable clearly to apprehend what is here proposed. A regular system of book-keeping carried on upon ordinary and recognized principles does not seem to call for any general superintendence except within the establishment itself, and would scarcely furnish much employment to the proposed new officer or officers, nor do the proposed duties as to suggesting improvements tending to simplification of the accounts and the security of the suitors’ money seem to be very tangible, and they certainly would not seem to come within the general scope of an auditor’s employment.

Paragraph 29.—The subject referred to in this paragraph has been discussed in the statement already mentioned as having been furnished to the Commissioners by the Accountant-General.

Paragraph 31.—The value of the relaxation which is afforded by the “long vacation” and the necessity for which is experienced in every department of the Court, cannot be of greater importance to any of its officers than to the clerks of the Accountant-General. No duties can be more exhausting than those involved in the sustained application to figures by which the brain and the health are taxed in the unavoidable pressure which falls upon them. It is very rare that any vacation business requiring to be transacted by the Court is of a nature to call for the action of the Accountant-General. To enforce attendance by the officers on occasional days would lead to the necessity of re-assembling almost if not quite the whole of the staff, as the necessary distribution of the duties in order to safe working requires each clerk to be in his place to take his proper part. This would lead to the loss of the opportunity of going to a distance and of entire change, of which the benefit is now felt.

If it should be thought that there is a necessity for providing for the security of money and stock which it might be wished to bring into Court during the vacation, a plan similar to that adopted in the Lands Clauses Act, sect. 88, with respect to purchase money for lands taken by promoters of undertakings during the time the office is shut, might be put in operation. The cash might be deposited in the Bank of England, and the stock transferred to the chief accountant of that establishment. When the office re-opens the usual directions could be obtained for making the payment and transfer to the proper account.

It is extremely doubtful whether in point of despatch the suitors would gain much, if anything, by disturbing the present system of a lengthened vacation. It is well known that the fact of the long vacation being at hand leads to the completion of much business that would be otherwise postponed, and it is greatly to be doubted whether a change in that respect would not operate as a direct premium upon unnecessary delay.

Paragraph 32.—The length to which transcripts of accounts frequently extend would render it impracticable to have them always made out within a short interval of time. The two additional particulars mentioned (dates of orders and prices of stocks) are seldom required, and would cause the making out of the transcripts to consume considerably more time than they do at present, as a reference would have to be made to another book in each case.

With respect to its being obligatory upon the Accountant-General to send to the plaintiff’s solicitor a transcript, it may be remarked that the Accountant-General has no official knowledge of him nor does there seem to be any sufficient reason why it should be obligatory to furnish a transcript of account in the case of a suit any more than

Continuous Audit.

27. Considering the magnitude of the transactions between the Court and the Bank of England, it seems necessary that there should be a systematic and effectual audit or supervision to guard against unintentional errors, fraud, and forgery. Your Committee do not conceive they are called upon to define the particular manner in which this audit or supervision should be carried out, or the precise details of any plan. It should however be continuous and effective, and should be carried out by persons independent of the Accountant-General.

28. The objects to be secured are to preserve a general superintendence over the system of book-keeping in the Accountant-General’s office, to suggest improvements tending to the simplification of the accounts and the security of the suitors’ money, and to call attention from time to time to the balance in the hands of the Bank of England, whenever it exceeds the stipulated amount, with a view to its investment.

IV. DEALINGS BETWEEN THE ACCOUNTANT-GENERAL AND THE BANK OF ENGLAND.

As regards the present System of buying and selling Stock.

29. As the Accountant-General holds a large amount of stock which he is constantly adding to and diminishing, in obedience to the orders of the Court, it would be a great saving of time and convenience to the suitor if the sales and purchases were effected as far as possible by means of stock standing in the Accountant-General’s name without the intervention of a broker, further than to certify the average prices of the day.

V. MISCELLANEOUS RECOMMENDATIONS.

Branch Bank near the Accountant-General’s Office.

30. It is indispensably necessary there should be a branch of the Bank of England either under the same roof with, or in the immediate vicinity of, the Accountant-General’s office. The journeyings from Chancery Lane to the City by suitors, legates, creditors, solicitors, and clerks, and by those holding official situations in the Accountant-General’s offices, are at present most inconvenient, and lead to a great waste of time. It may be mentioned that clerks from the Bank of England attend at the office of the Accountant in Bankruptcy and cash the cheques issued in that Court.

Office Hours in Vacation.

31. It has been suggested that the Accountant-General’s office should be open, for vacation or urgent business only, for a short time daily, or on certain days during the vacation. We think the office should be open from 11 to 2 on two days of the week, and that arrangements might be made for this purpose without encroaching on the holidays necessary for all parties connected with the office.

Transcripts of Suitors’ Accounts.

32. Certificates of the Accountant-General of payments of money into the Bank, and of the other transactions effected by him, might be abolished, but the Accountant-General’s transcripts of his books ought to be given out the day after they are bespoken (at present there is great delay), and such transcripts should contain the date of the receipt or payment, from or to whom received or paid, under what order, and on what account, and the price of stock bought or sold; and we recommend that it be made obligatory that the Accountant-General should send to the plaintiff’s solicitor, and that the latter shall be bound to obtain at least annually, a transcript of the Accountant-General’s account in each suit, and the Registrar should be authorized to act on them without requiring a

Continuous audit.

Duties of auditor.

Sales and purchases should be made out of the Accountant-General’s stock.

A branch Bank near the Accountant-General necessary.

Vacations and office attendance. The long vacation not to be materially shortened.

Abolishing certificates of payments. Transcripts of Accountant-General’s books.

Observations on the part of the Accountant-General.

in that of a matter. At present, when a solicitor has obtained a transcript, he brings it to be continued from time to time, as he has occasion; is he to be compelled to bring it yearly to be made up, or is it meant that the Accountant-General is to furnish a fresh transcript each year in each case? As to the use which it is proposed that the Registrar should make of the transcript as a substitute for the certificate of the fund in court it may be remarked that although the transcript would enable him with more or less trouble to ascertain the amount of the fund at any time it would not expressly inform him, as the certificate does, what the amount actually was. With regard to its being used instead of certificates of payment into Court, and of the other transactions of the Accountant-General, it should be remembered that many if not most of the parties who require such certificates (especially those of payment of money into Court) are only interested in the particular transaction, and would not wish to be encumbered with entries in which they were not concerned, nor does it seem advisable to disseminate information about the funds in Court more widely than the conduct of the business renders absolutely necessary.

Paragraphs 33 to 38.—The responsibility which would attach to seeing that the securities contained all the proper coupons is the reason for the practice commented on in these paragraphs. It is not, however, necessary that the securities should be actually taken out of the bank when the coupons are detached. The Accountant-General's directions to re-deposit the box can be bespoken at the same time that the Registrar's certificate for the delivery out is left for examination and countersignature. The certificate and direction are then taken to the bank together, the box is opened by the party authorized, the coupon that is due taken out and the box restored to the custody of the bank. The only expense necessarily incurred is that which is occasioned by the attendance of the solicitor.

certificate of the fund in Court on each application to the Court.

Presentation for Payment of Coupons on Foreign Securities.

33. Alteration is also required in the present inconvenient system of dealing with securities (not being Government securities) having coupons attached, such as Spanish bonds, &c. At present neither the Bank nor the Accountant-General will accept the responsibility of the deposit, or present the coupons for payment.

Presentation for payment of coupons on foreign securities.

34. The practice is to place such securities in a locked box, which is deposited at the Bank of England under an order (see Seton's Form of Orders, 3rd edit., p. 60), which directs that each half year the box shall be handed back to some person named by the Court (who keeps the key of the box), that he may receive the monies. Each half year it is necessary to bespeak from the Registrar a direction to the Bank to deliver out the box, and this direction is afterwards taken to the Accountant-General, who countersigns it, and on taking away the direction a receipt is signed by the party to whom it is given. The time occupied is usually one day at the Registrar's, and one or two days at the Accountant-General's.

35. The Registrar's direction, countersigned by the Accountant-General, is then taken to the Bank of England, and it is usual to allow a day there for looking out the box. The person named in the direction calls again at the Bank, removes the box, and cuts off the coupons. A fresh direction is then required from the Accountant-General for the re-deposit of the box, and a fresh journey to the Bank for that purpose.

36. This cumbrous mode of proceeding has not even the excuse of security, as the Court gives up all the securities (and not merely the coupons) each half year.

37. It is suggested that the same safe course that is adopted in ordinary cases should be acted on; that the coupons should be cut off and presented by some proper person at the Bank of England or at the Accountant-General's. The expense, delay, and inconvenience now experienced will be thus avoided, and the securities will not leave the custody of the Court or its bankers.

38. Coupons are now attached to Exchequer Bills, and they are not subjected to the above course of procedure.

As to Interest to be allowed to the Suitors on uninvested Cash.

39. The Committee consider it would be extremely beneficial if some arrangement could be made by means of which the suitors might receive a moderate rate of interest on cash belonging to them and remaining in Court uninvested, beyond a certain period to be fixed.

Interest on uninvested cash.

40. They think that two per cent. would be a reasonable and proper rate of interest to allow to the suitors on all monies to be paid into Court after a given day.

At a Meeting of the Council of the Incorporated Law Society, held on Thursday, the 19th day of December 1861.

Read and considered the Report of the Equity Committee of the Incorporated Law Society on the Accountant-General's Department of the Court of Chancery, with suggested Improvements, dated the 10th day of December 1861.

Resolved,—

“That the Report be adopted, and that a printed copy thereof be presented to Her Majesty's Commissioners appointed to inquire into the constitution of the Accountant-General's Department of the Court of Chancery, the forms of business in use therein, and the provisions for the custody and management of the stocks and funds of the Court, and to suggest improvements in the said matters, with especial view to the advantage of the suitors, and to the safety, convenience, economy, and despatch in the transaction of the business of the Court,” soliciting the Commissioners to consider the Report.”

(Signed) JOSEPH MAYNARD,
President.

APPENDIX.

In Chancery.

WILSON v. TAYLOR.
1860—W—56.

Schedule to Order on further Directions, dated 1st January 1862, of Payments to be made by the Accountant-General, out of cash to be raised by sale of Consolidated Bank Annuities by the said Order directed to be sold.

	£	s.	d.
To Anne Amory, the wife of the Rev. John Amory, of Woodbridge, in the county of Suffolk, clerk, amount of her legacy under the will of the testator -	500	0	0
To Samuel Stokes, of Rissington, in the county of Gloucester, gardener, amount of his legacy -	19	19	0
To Thomas Benson, of Bourton, in the said county of Gloucester, butcher -	34	0	0
To Henry Anson, of Stow, in the said county of Gloucester, tailor -	13	0	0
To Benjamin Barton, of Uxbridge, in the county of Middlesex, Esquire, amount of his bond debt -	300	0	0
To James Hale, of Highgate, in the county of Middlesex, brewer, due on note of hand -	50	0	0

	£	s.	d.
To Peter Beal, of Stroud, in the county of Gloucester, banker -	230	0	0
To Robert Thompson, of Haresfield Court, Cheltenham, Esquire, executor of testator, amount of wages and sundry bills paid by him -	540	0	0
To Hugh Hensman, of 239, Oxford Street, London, builder, half-year's rent of 21, Portland Place, due Lady-day, less tax -	175	3	1
To Mary Hemming, of 1, John Street, Clerkenwell, widow, half-year's annuity under testator's will dated 1st May -	19	2	3
To Messrs. Stonor and Co., of Gray's Inn, solicitors, plaintiff's costs, when certified by the Taxing Master -	-	-	-
To Messrs. Patey and Co., of 3, New Square, Lincoln's Inn, solicitors, defendant's costs when certified by the Taxing Master -	-	-	-
To James Brotherton, Receiver-General, amount of legacy duty on legacies and residue when assessed -	-	-	-
To Susan Hawtreay, of Slough, in the county of Bucks, spinster, residuary legatee, the clear residue -	-	-	-

No. XXVI.

MEMORANDUM furnished by the BANK of ENGLAND in reference to the Remuneration received by the Bank, and the Number of Overdrawn Drafts stopped at the Bank Chancery Office.

Sir,
Bank of England, E.C.,
7th February 1863.
IN answer to your letter of the 29th ultimo, in which, by instruction of the Duke of Argyll, you request certain particulars to be furnished by this Bank to the Chancery Funds Commission, I am directed by the Governor to forward you the accompanying papers:—

1. A memorandum by Mr. Miller respecting the charge of 5,300*l.* a year for the expense of keeping certain accounts at the Bank of England relating to the Court of Chancery; also that of 2,200*l.* for keeping the Duplicate Suitors' accounts.
2. A return of the number of overdrawn cheques of the Accountant General of the Court of Chancery stopped at the Chancery office at the Bank; and the number and amount of overdrawn cheques paid by the Bank during the last two years.

It will be observed, in regard to the second return, that it embraces a period of only two years. I am to express the Governor's regret that there is no means of ascertaining the particulars from an earlier date, and also that there is no record of the amount of the overdrawn cheques of the Accountant General which have been stopped at the Bank.

E. Macnaghten, Esq.
&c. &c.

I am, &c.
HAMMOND CHUBB,
Assistant Secretary.

MEMORANDUM.

No. 1.

The Secretary of the Chancery Funds Commission has requested to be furnished with "particulars of the charge of 5,300*l.* a year for the expense of keeping certain accounts at the Bank of England relating to the Court of Chancery; also of that of 2,230*l.* for keeping the Duplicate Suitors' accounts."

The sums specified do not form a charge, but are simply an estimate of the expenses incurred by the Bank in conducting the Chancery business. The same principle has been applied in forming this estimate as that which was adopted and sanctioned by the present Chancellor of the Exchequer in an inquiry into the expense of managing the Government accounts, with the details of which Mr. Anderson, a member of the Commission, is familiar. The salaries of the officers engaged in that particular department form the basis of the calculation, and a proportion of the other expenses of the Bank is added, equivalent to the proportion which the salaries applicable to that service bear to the whole of the salaries paid by the Bank.

These figures were furnished in consequence of a casual inquiry by Mr. Crawford, a member of the Commission, and no record of the calculation was preserved. The particulars could, however, with some little trouble be reproduced, if that should be considered necessary.

Bank of England,
7th February 1863.

W. MILLER.

No. 2.

No record was kept at the Bank Chancery office of the drafts returned, overdrawing accounts, prior to December 1860; for the last two years the number is as follows—

From 3rd December 1860	50
to 2nd " 1861	
From 3rd " 1861	39
to 2nd " 1862	

During this period two instances have occurred of drafts having been inadvertently passed, overdrawing the accounts; the first was in February 1861, and the error was discovered the succeeding morning in posting the ledger; the last was in January 1862, and this error was not discovered until the annual balance—the amounts overdrawn were respectively one penny and threepence.

No. XXVII.

RETURN to the CHAIRMAN of the CHANCERY FUNDS COMMISSION in compliance with the Letter of the Secretary to the Commission, dated 16th March 1863.

THE per-centage on the clear annual incomes of lunatics authorized by the Lunacy Regulation Act, 1853, is not paid at the office of the Masters in Lunacy, but is collected, in part by means of stamps purchased by the parties of the Commissioners of the Inland Revenue, and in part by the Accountant-General of the Court of Chancery carrying over the per-centage in particular lunacies from the funds in his hands belonging to such lunatics to the Suitors' Fee Fund account.

Such per-centages, however, whether collected by stamps or carried over by the Accountant-General, are so collected

and carried over under certificates of the said Masters, which state the net income of each lunatic and the amount of per-centage to be paid or carried over thereon.

The total amount of all the clear incomes so certified for the year ending the 28th October 1862 was 373,211*l.*

The amounts of such clear incomes are divisible according to the rate of per-centage as follows:—

Amount of incomes on which the rate of	£	s.	d.
4 per cent. was payable -	121,893	0	0
Ditto, 3 per cent., ditto -	109,701	0	0
Ditto, 2 per cent., ditto -	141,617	0	0

No fees are received by the said Masters or their clerks, but the fees payable under the said Act on proceedings in the offices of the said Masters are paid by purchasing stamps of the Commissioners of the Inland Revenue.

The following documents, however, were issued by the and Masters during the above-mentioned year, having the under-mentioned stamps affixed to them, viz. :—

435 reports and certificates having each H. stamp affixed.

3 requests to attend Court having each 1/2 stamp affixed.

May 9, 1863.

H. ENFIELD, Chief Clerk.

No. XXVIII.

RETURN of the TOTAL AMOUNT payable in respect of the Offices in Lunacy and the Officers thereof,
including Salaries, Compensations, Rent, and Expenses.

		Salaries.		
		£	s.	d.
2 Masters in Lunacy at 2,000 <i>l.</i>				
each	- - -	4,000	0	0
Chief Clerk to ditto at	- -	800	0	0
2 Clerks to ditto at 600 <i>l.</i> each-		1,200	0	0
1 Clerk at	- - -	350	0	0
1 ditto	- - -	300	0	0
2 ditto at 250 <i>l.</i> each	- - -	500	0	0
1 ditto	- - -	200	0	0
1 ditto	- - -	150	0	0
Registrar in Lunacy	- -	800	0	0
2 Clerks to ditto at 350 <i>l.</i> each-		700	0	0
1 ditto at	- - -	150	0	0
1 ditto at	- - -	80	0	0
2 Medical Visitors at 1,500 <i>l.</i>				
each	- - -	3,000	0	0
1 Legal Visitor	- - -	1,500	0	0
Secretary to the Visitors of				
Lunatics	- - -	300	0	0
First Clerk to Visitors	- -	300	0	0
2 Clerks to ditto at 250 <i>l.</i> each-		500	0	0
		14,830 0 0		

<i>Compensations.</i>		£	s.	d.
John Bright and Henry Herbert Southey, Esqs., late Medical Visitors of Lunatics, 250 <i>l.</i> each	- -	500	0	0
Edward Winslow, Esq., late Master in Lunacy	- -	1,000	0	0
Charles Knight Murray, late one of the Commissioners in Lunacy	- - -	150	0	0
			1,650	0 0

<i>Rent.</i>		
Offices of Masters in Lunacy and Visitors of Lunatics - - - -	£	s. d. 670 0 0
<i>Expenses.</i>		
	£	s. d.
Travelling expenses of the Masters in Lunacy for the year ending November 1862	750	10 6
*Ditto of the Visitors of Lu- natics for ditto - - -	1,128	17 0
Expenses incurred for sta- tionery, coals, candles, furni- ture, repairs and fittings in the offices of the Masters and Visitors in Lunacy - - -	663	6 0
Expenses incurred in the office of the Registrar in Lunacy for stationery, copying, can- dles, coals, and other dis- bursements - - -	221	17 9
	2,764	11 3
	19,914	11 3

March 23, 1863. J. J. JOHNSON,
Sol. to the Suitors' Fund.

* The allowance for travelling has been reduced from 1s. 6d. per mile to 9d., but it is expected the visitors will have to travel many more miles during the year than heretofore, according to the provisions of the late Act of the 25th and 26th Vict. c. 86. The account for travelling, from the 1st of October 1862 to 31st March 1863, amounted to 1,284. 9s. 4d., part of which is included in the above.

No. XXIX.

A RETURN prepared at the Request of the CHAIRMAN of the CHANCERY FUNDS COMMISSION of the Number of Orders passed in the Office of the Registrar in Lunacy during the Year ending the 28th day of October 1862.

The number of Orders passed in the office of the Registrar in Lunacy for the above-mentioned period was - - - - - 317

The number of the above-mentioned Orders in respect of which Fees were remitted by direction of the Court in pursuance of the 32nd Section of the Lunacy Regulation Act was - - - 11

Leaving the number of Orders on which Fees of	
2l. per Order were paid	306
The amount of stamps on such Orders there-	
fore was	£612

Quality Court, May 28, 1863. CHARLES N. WILD,
Regr. in Lunacy.

No. XXX.

RETURN from the ACCOUNTANT-GENERAL in reference to the items, "Notes, Bills, and Private Bonds," and "Mortgages," appearing in the Bank Annual Return, with a Letter from the Accountant-General in reference thereto.

NOTES, Bills, and Private Bonds described in the books of the Accountant-General and of the Bank of England, as standing to the credit of various causes or matters:—

Mortgages described in the books of the Accountant-General and of the Bank of England, as standing to the credit of various causes :—

	£	s.	d.	
A bond for	100	0	0	deposited 12 Aug. 1726, assigned by one of the Masters.
A bond for	50	0	0	5 Sept. 1726, "
A bond for	436	18	0	5 Sept. 1726, "
A bond for	94	0	0	5 Sept. 1726, "
A bond for	4,000	0	0	5 Sept. 1726, "
A bond for	5,000	0	0	7 July 1736, deposited pursuant to order.
A bond for	16,000	0	0	3 Feb. 1814, "
A bond for	7	4	10	4 Mar. 1726, "
A bond for	500	0	0	16 Dec. 1730, "
A bond for	1,000	0	0	4 Mar. 1726, "
Total...	£27,188	2	10	

	£	s.	d.	
A mortgage deed for 1,000	0	0	0	deposited 4 Aug. 1726, assigned by one of the Masters.
A mortgage deed for 555	15	0	0	16 Nov. 1726, "
A mortgage deed for 2,676	16	8	0	28 Nov. 1727, pursuant to order.
A mortgage deed for 400	0	0	0	4 Sept. 1730, "
A mortgage deed for 100	0	0	0	21 Feb. 1749, "
Total...	£4,732	11	8	

Accountant-General's Office,
Chancery Lane,

SIR,
In answer to the inquiry directed by the Chancery Funds' Commissioners in the terms of your letter of yesterday's date, I transmit a list more in detail of the items to which that inquiry refers.

It is possible and indeed probable that these items are of no real value, but as they are held by the Accountant-General in trust to attend the orders of the Court, I apprehend that the full and due investigation of them would neces-

sarily be a matter of judicial inquiry as to each item, which would, however, probably lead to a consumption of the time of the Court for no adequate purpose. So long as they remain in the custody of the Bank they must, I apprehend, be the subject of some notice in its return, and the present terms in which that notice is framed would seem to be as brief as possible.

I am, Sir,
Your obedient servant,
E. Macnaghten, Esq., Secretary,
Chancery Funds' Commission. WM. RUSSELL.

No. XXXI.

A RETURN of the ALTERATIONS in the Accountant-General's Department in matters prescribed by the Act 12 Geo. 1. c. 32, made by the Court of Chancery, under the Powers reserved to the Court by the Act.

Order dated 16th February 1807, *(Consolidated General Orders 1, Rule 1).—Directs that when payment of any sum or sums of money is to be made to an unmarried woman who marries before payment, such sums not exceeding 200*l.* of principal money, or 10*l.* a year in annual payments, the Accountant-General may draw in favour of such woman and her husband upon certain prescribed evidence.

Consolidated General Orders 1, Rules 2 and 3.—Extend the above regulation to transfers of stock within the limit of 200*l.* value, and to cases of both payment and transfer when the aggregate value does not exceed 200*l.*

Order dated 28th July 1852, (Consolidated General Orders 1, Rule 4).—Directs that sums certified to be due to any persons as legal personal representatives may, upon proof to the Accountant-General of the death of any of them, be paid to the survivors or survivor of them.

Order 22nd August 1859. Order 5. (Consolidated General Orders 1, Rule 5).—Money directed to be paid to the legal personal representatives of any person or to any persons as legal personal representatives may upon proof of death of any of them be paid to the survivors or survivor of them.

Order 22nd August 1859. Order 6. (Consolidated General Orders 1, Rule 6).—Money directed to be paid to any person or to his legal personal representatives may, upon proof of the death of that person whether before the date of the order or not, be paid to the legal personal representatives or the survivors or survivor of them.

Order 22nd August 1859. Order 7. (Consolidated General Orders 1, Rule 7).—A similar order as to the transfer of stock in either of the two last-mentioned cases.

Order 22nd August 1859. Orders 8 and 9. (Consolidated General Orders 1, Rules 8 and 9).—Limitation of time within which Probates or Letters of Administration must be taken out to be acted on under Rules 6 and 7.

Order 22nd August 1859. Order 10. (Consolidated General Orders 1, Rule 10).—Money certified to be due to any persons as partners may be paid to any one or more of them.

Orders dated 8th November 1803, 2nd December 1805, 10th July 1806, and 8th July 1842, and several subsequent Orders (a new Order being necessary at each alteration of the Income Tax).—Direct the Accountant-General to make a deduction in certain cases from the amount drawn for by him.

Order dated 23rd November 1805.—Directs the Accountant-General out of the dividend on Bank Stock to draw for three and a half per cent. only.

A similar Order was made each subsequent half year whenever the dividend exceeded three and a half per cent. (a schedule of excepted cases in which the whole dividend was to be paid being added), until 16th August 1861, when a General Order was made regulating the practice, and rendering further Orders unnecessary.

Order 4th May 1852.—Directs the investment of dividends upon stock purchased with monies paid in under legacy Acts.

Order 7th May 1852.—Directs the investment of money paid in under the Trustee Relief Act, and of dividends upon stock purchased therewith, and upon stock transferred into Court pursuant to the Act.

Order 3rd June 1853.—Directs the continuous investment of dividends upon stock standing on any cause or matter or account when such investment is directed by any decree or order of the Court, and it has been once requested, without any further request.

Order 22nd August 1859, Order 13.—Directs the investment of principal money and interest to be received on Exchequer Bills and Bonds.

* On the occasion of consolidating the General Orders of the Court, the course of action by the Accountant-General in carrying out the Money Orders was the subject of much suggestion on the part of the Registrars, in order to the improved framing of such Orders, and received the most careful consideration from Vice-Chancellor Kindersley, who, after full communication with the Accountant-General, sanctioned the laying down of the various directions in that behalf embodied in the Consolidated General Orders.

Orders 21st December 1833, and 7th December 1839.—Direct that amounts to be dealt with by the Accountant-General, the names of persons, and the times for making periodical payments are to be specified in words at length, and also as to ascertaining residues of stock and cash.

Order 1st November 1841.—Directs that Exchequer Powers of Attorney may be acted upon by the Accountant-General.

Order 8th May 1845.—Directs how the time for doing any act (as payment or transfer into Court) is to be computed, and contains the rule as to Sundays or other days on which the office may be closed, and also as to lunar and calendar months.

Order 18th July 1857.—Directs that when a person is ordered to do any act, the time shall be stated within which it is to be done.

Order 16th October 1852.—Directs that the certificate of the Chief Clerk as to computation of interest and apportionment of funds may be acted upon without being signed by the Judge in certain cases.

Order 1st June 1854, (Order 4).—Contains a direction as to Chief Clerk's certificates to be acted upon by the Accountant-General.

Order 7th November 1853 (in Lunacy), (Order 16).—Master in Lunacy may direct investment of any sum of cash belonging to the lunatic in Bank 3*l.* per cent. annuities, and the dividends to accrue upon the stock purchased are to be invested without request, unless the Master shall otherwise certify. (Order 29).—The Accountant-General is to carry over to the Sutors' Fee Fund Account out of cash arising from dividends in lunacy matters the amounts certified by the Masters in Lunacy to be payable in respect of per-centage on lunatics' incomes, and any orders made or to be made in any such matters are to be subject thereto and to be acted upon by the Accountant-General.

Order 10th June 1848.—Contains regulations as to payment and transfer into Court under Trustee Relief Acts.

Order 25th October 1852.—Directs the carrying over of fees of taxation to be certified by the Taxing Master to the Sutors' Fee Fund Account.

Order 10th December 1852.—Directs the payment by the Accountant-General of deposits out of the Appeal Deposit Account.

Order 9th March 1854.—Contains directions as to legacy and succession duty.

Order 26th July 1855.—Directs payment by the Commissioners of Inland Revenue to the credit of the Sutors' Fee Fund Account of monies received by them for Chancery Fee Fund Stamps.

Order 1st August 1741.—Directs that annuities due on Exchequer orders belonging to the suitors, be paid to one of the cashiers of the Bank of England.

Order 28th August 1828.—Directs that any Exchequer bills belonging to the suitors deposited in the Bank of England, shall, when in course of payment, be exchanged for new bills.

Order 27th July 1852.—Directs that the duty of countersigning the Accountant-General's cheques shall be discharged, as nearly as conveniently may be, during three days of each week by the Master of Reports and Entries.

Orders 29th June 1749, 1st August 1818, 28th January 1826, 25th April 1831, 7th January 1839, 20th July 1857 and 18th and 23rd January 1860, authorized persons to sign for the Accountant-General in consequence of his illness.

Orders 23d January 1860 and 15th December 1862 authorized the Accountant-General's Chief Clerk to sign certificates for the same reason.

Order 12th February 1863.—Directs that all certificates of funds in Court and of transactions that have been recorded in the books of the Accountant-General be signed by his Chief Clerk, as for and on behalf of the Accountant-General.

No. XXXII.

A RETURN of the ALTERATIONS in the Accountant-General's Department in matters prescribed by the Act 12 Geo. 1. c. 32. made under the authority of any Act of Parliament.

12 Geo. 2. c. 24. and many subsequent Acts direct payments to be made by the Bank of England out of the Suitors' Fund without any draft from the Accountant-General.

36 Geo. 3. c. 52. and 37 Geo. 3. c. 135. (Legacy Duty Acts).—Direct the laying out of money paid in under the first of those Acts, in respect of legacies to infants and to persons absent beyond the seas, without any order of the Court.

15 & 16 Vict. c. 87.—Abolished the office of Clerks of Accounts, and directed the account of monies of the suitors of the Court kept at the Report Office to be discontinued. The certificates of principal drafts having been drawn, which it had been the practice to deliver to the persons receiving the drafts for the purpose of being filed at the Report Office, were soon found to be useless, and therefore they also were discontinued.

Sect. 31.—Directs that Orders in Lunacy are to be acted on as if drawn up by a Registrar of the Court of Chancery, and that certificates of the Registrar in Lunacy are to be received for the transfer of any stock under such orders.

Sect. 32.—Directs that certificates and reports of Masters in Lunacy filed in the Office of the Registrar in Lunacy are to be acted upon. The Act also directed that Fee Fund Stamps should be substituted for fees; that deposits on appeals should be paid into Court by the Registrar to an account to be entitled "The Appeal Deposit Account," and that the Accountant-General should be paid by a salary instead of receiving any part of the brokerage.

16 & 17 Vict. c. 98.—Directs an investigation to be made periodically into accounts the dividends of which have not been dealt with for 15 years or upwards. The investigation of various old accounts long outstanding and going back to remote periods in order to the prosecution of claims in various causes and matters comprised in the lists published under the above authority, has tended to show the security of the system under which the accounts in the several cases inquired into have been kept.

The Lunacy Regulation Act, 1853.—Directs (sect. 64) that the Masters in Lunacy may by certificate direct payment of money or transfer of stock into Court by the Committee of Estate in lieu of security being given, and may direct how any money is to be invested or how any dividends are to be applied; and such payment, transfer, investment, and application are to be made by virtue of such certificate. Under sect. 65 the Master in Lunacy may authorize payment or transfer into Court of money or stock belonging to the lunatic.

Under sect. 101.—Money orders in lunacy and reports of Masters in Lunacy confirmed by fiat are to be acted upon by the Accountant-General as if drawn up by the Registrar of the Court of Chancery; and the Registrar in Lunacy in case of an order and the Master in case of a report are to certify to the Accountant-General as to amount of stock to be transferred in the same manner as the Registrars of the Court of Chancery were accustomed to do.

No. XXXIII.

A RETURN of the ALTERATIONS in the Accountant-General's Department in matters not prescribed by the Act 12 Geo. 1. c. 32, made by the Accountant-General for the time being, either on his own authority or under the sanction of the Court of Chancery.

The establishment has been increased from time to time, according to the exigencies of the business, as under:—

At the commencement of the office in 1726 there were two clerks; one was added in 1764; one in 1769; three in 1792; four in 1806; four in 1815; one in 1820; two in 1827; four in 1841; four in 1844; four in 1853; one in 1854; and four in 1857.

In October 1797 the office was subdivided into three divisions, for the better despatch of business. There were then seven clerks; the number was increased from time to time as above stated until in 1827 there were 18 clerks, viz., six in the first and third divisions, five in the second division, and the chief clerk.

In October 1841 upon the bringing over of the Exchequer accounts a re-arrangement of the office into four divisions took place with five clerks in each division, and one to assist the chief clerk. In 1844 a sixth clerk was added to each division, in 1853 a seventh clerk to each, in 1854 an eighth clerk to the fourth division, and in 1857 an eighth clerk to each of the first three divisions, and a ninth clerk to the fourth division. At each of these successive changes a fresh distribution of the work of the office took place under the sanction of the Accountant-General.

By the Order, dated 8th May 1845, single holidays were abolished.

In 1853 the hours during which the office had been formerly open to the public, were, with the sanction of the Lord Chancellor, extended from two until three o'clock. The evening attendance, which had been during some periods of the year from four until seven, at others, from four until six, and had sometimes ceased altogether, was made uniform, from four to six.

In 1853 the practice was introduced of opening the office for three days during the long vacation (in the middle of the month of October) for the purpose of paying the October dividend drafts, and of such other drafts as may have become due during the time the office has been closed.

In 1833 the change was made in the mode of keeping the ledgers referred to and described in paragraph 39 of the paper furnished by the Accountant-General to the Commissioners. (No. 3.)

In 1852 the Accountant-General obtained the sanction of the Lord Chancellor to dispense with the production of the Order after bespeaking the first draft, in the case of periodical payments.

In the year 1828 a fraud having been committed by

means of some forged powers of attorney, a form of request, to be signed by a solicitor personally, was adopted, in which it was made an imperative condition that he should state that the grantee of the power was well known to him.

In the year 1837, in consequence of the abstraction of one of the drafts by a clerk in the office, some strict rules were laid down for their more safe custody; and to prevent an accumulation of arrears of interest drafts, it was settled that at the examination of each dividend all the back drafts remaining unreceived should be examined, and in every case in which there was an arrear of 18 months they were to be at once destroyed, and only redrawn upon notice of the intention of the party entitled to come to receive them. By reason of the uninterrupted immunity from loss of the Court's Funds, a change of practice, with a view to guard against insecurity, and not founded upon convenience alone, has rarely been necessary.

In the year 1837 the system of time books was introduced, in which the daily attendance of each clerk is recorded.

An incorrect certificate of funds in Court having been given (in November 1837) upon the reopening of the Office after the long vacation, in consequence of the books not having been properly entered up, it was directed that attendance should always be given of those whose duty it was to make the several entries for a sufficient period before the close of the vacation, in order that the books might be in a proper state to commence business immediately that the vacation terminated.

With regard to the general work of the office, changes have been made from time to time, as a saving of time, coupled with a due regard to safe and accurate performance of the business, seemed to render them advisable. Some of the entries have been shortened; books, as journals and receipt books, have been subdivided; the receipts for the drafts, as far as possible, lithographed, and the formal parts of certificates printed. It would be difficult to particularize when each modification of this kind was introduced. The mode of conducting the business of the Office, as now regulated, does not, with the exceptions set out in the foregoing return, differ materially from the minute detail contained in the Act of George I. There is every reason to believe that the principles laid down in the Act have been adhered to under a firm conviction on the part of those who have had the practical working of the business, that the observance of them has greatly conduced to the high degree of accuracy which has been constantly maintained.

WM. RUSSELL, A. G.

No. XXXIV.

EVIDENCE of Mr. SAMUEL PARKINSON before the SELECT COMMITTEE of the HOUSE of COMMONS on FEES IN COURTS OF LAW AND EQUITY—(1848).

JOHN ROMILLY, Esq. in the Chair.

7th January 1848.

582. *Chairman.*] You are chief clerk in the Accountant-general's office?—Yes.

583. How many divisions are there in the office?—Four now; there used to be three.

584. That is a return from the Accountant-general's office of the fees received there (*the same being shown to the witness*)?—Yes.

585. Is that an account of all the fees which are received?—Yes; those are the whole of the fees which are received.

586. By whom are those received?—For the powers of attorney and the transcripts of accounts the fees are received by the second clerk in each division. These fees, and also the gratuities in respect of the legacy receipts, and for expediting sales and transfers of stock, and payments of cash, &c., are all divided between the first clerk in each division and the second clerk. The first clerk in each division receives two-thirds and the second clerk the remainder.

587. All those clerks are under you; you are the chief clerk in the whole office?—Yes.

588. Are any fees received by the four other clerks?—There are small fees received by the four other clerks.

589. What are the fees received by them?—I believe there is a note to this return stating them.

590. According to the return it appears that the fees on deposits are put down to the third clerk, and on searches to the fourth clerk?—Yes, that is correct.

591. And none received by the fifth and sixth clerks?—None whatever. I have prepared a statement of the fees taken, which if the Committee will allow me to read, it may save trouble.

[*The same was delivered in and read, as follows:*]

The Fees received at the Accountant-general's office for the office copies of Certificates are as follows:

	£	s.	d.
Payments into Court under Act of Parliament	-	0	4 0
Ditto under orders of the Court	-	0	2 0
Transfers of stock into Court under Acts of Parliament	-	0	4 0
Transfers under order	-	0	2 0
Investment of principal money	-	0	3 6
Ditto of interest money	-	0	2 0
Sale of stock	-	0	2 6
Transfers of stock out of Court	-	0	1 6
Carrying over from one account to another	-	0	2 6
Deposits of Exchequer Bills	-	0	5 0
Delivery out of Exchequer Bills	-	0	5 0
Investment of principal money in Exchequer Bills	-	0	5 6
Sale of Exchequer Bills	-	0	5 0
Exchange of Exchequer Bills	-	0	5 0
Investment of interest money in Exchequer Bills	-	0	4 0

On the above transactions in the Accountant-general's office a certificate is made by the Accountant-general, pursuant to the Act of 12 Geo. 1. c. 32., and annexed to a certificate signed by the proper officer at the Bank, &c. (that the transaction has been completed), and filed in the Report-office. A sum sufficient to cover the fee of 4d. for filing and 4d. per folio for the office copy of these certificates is taken by the third clerk in each division of the Accountant-general's office on bespeaking the same, and previous to the certificate being prepared. On the certificate being signed, it is sent to the office of the clerks of accounts to be entered and endorsed, and from thence to the Report office to be filed and an office copy thereof made; and on the office copy being brought to the Accountant-general's office (for delivery to the parties) by the clerk of reports, the fee for filing and for the office copy, according to its actual length, is paid over to him by the third clerk out of the sum he has received from the solicitor, and the surplus the third clerk retains for his own use. This surplus amounts to about 115*l.* a year for each of the said third clerks.

Searches are made in the books of the Accountant-general by the fourth clerks or ledger-keepers in the said office, at the request of solicitors; a fee of 5*s.* is taken for the same, and kept by the said clerks for their own use.

The following fees are also received in the Accountant-general's office:

	£	s.	d.
Drawing powers of attorney to be executed in England, with affidavit	-	0	5 6
Ditto, to be executed abroad (no affidavit)	-	0	6 0
Special powers of attorney, the whole written (no affidavit)	-	1	1 0
Transcripts of accounts, debtor and creditor (exclusive of book) each side	-	0	4 0

A gratuity is given by the Stamp-office of 10*s.* for requiring the production of each receipt for legacy duty payable on the funds in Court, on the parties receiving the same.

Gratuities are sometimes given for expediting the payments of money, examining minutes of orders, and on the winding up of causes.

The last-mentioned sums when received are divided between the first and second clerks in each division of the office; the first clerk in each receiving two-thirds for his own use, the second clerk one-third for his use.

The Accountant-general's brokerage for the last year was 3,219*l.* 9*s.* 7*d.*

592. When the clerks receive the fees do they enter them in a book?—Yes.

593. Does that take them much time?—Very little.

594. Some of the fees are small?—Some of the fees are very small; the third clerk has to settle the account with the clerk of reports, and to hand over to him the amount due and keep the difference.

595. When does he make up the account?—Once a fortnight.

596. And then he hands it over to whom?—A clerk in the Report-office brings to him the office copies, and the third clerk hands over to him the fees payable thereon.

597. Which clerk in the Report-office does that?—Mr. M'Kean.

598. Will you explain what he does?—The originals are taken to the Clerk of Accounts office daily to be entered and endorsed, from whence they are sent down to the Report-office to be filed and copied, and then about once a fortnight Mr. M'Kean, from the Report-office, brings up the office copies, and the clerk pays him the amount of those office copies; perhaps he may bring up three or four hundred at a time.

599. That is for the office copies of what?—Of the certificates.

600. Do the clerks receive other fees which they pay to the Fee Fund?—None whatever.

601. Are there not fees received from the Accountant-general's office paid to Mr. M'Kean?—No; there are fees for powers of attorney and other things, which are kept by the clerks in the Accountant-general's office. Out of the sum of 1*s.* 6*d.*, for instance received for a certificate of transfer, by the third clerk in the Accountant-general's office, he pays over to the clerk of reports 4*d.* for filing it, and 4*d.* per folio for the office copy, and the difference, if any, he retains for his own use.

602. *Mr. Turner.*] A certain fee is payable to the Accountant-general's clerk; of that fee he pays to the officer of the Report-office, 4*d.* for filing, and for the office copy, 4*d.* per folio, and that 4*d.* per folio is again subdivided into 2½*d.* and 1½*d.*; the clerk in the Report-office keeps 1½*d.* and pays 2½*d.* into the Fee Fund?—Yes, the third clerk takes, say 1*s.* 6*d.*; the fee at the Report-office is 4*d.* for filing and 4*d.* a folio for the office copy; the difference between the 4*d.* for filing and the 4*d.* per folio for the office copy and the 1*s.* 6*d.* might be 6*d.* or 10*d.*, as the case might be, because the Accountant-general's clerk does not know at the time he receives the 1*s.* 6*d.* how long the copy will be.

603. If the Accountant-general's clerk receives 1*s.* 6*d.* for a document, which document is one folio in length, and upon which therefore the fee to the Report-office will be 4*d.* for filing and 4*d.* for the office copy, the result would be that 10*d.* would remain with the Accountant-general's clerk, and 8*d.* would pass into the Report-office, and 4*d.* thereof would be again subdivided into 2½*d.* and 1½*d.*; the 1½*d.* would remain with the clerk of the Report-office as copy money, and 2½*d.* would go into the Fee Fund?—Yes, the 4*d.* for filing and 2½*d.* for the office copy.

604. *Chairman.*] Were you rightly understood to say that no fees are paid into the Fee Fund by the Accountant-general's office?—Not directly.

605. All fees which are paid go through the Report-office?—Yes.

606. None are paid directly?—None whatever.

607. What check is there upon the clerks that they hand over to the Report-office the proper proportion of the amount which they receive?—The Report-office charge it.

608. How is that done?—It is 4*d.* for filing each certificate, and 4*d.* per folio for each office copy; once a fortnight there are brought up from the Report-office the whole of the office copies made during that time, and the clerk of

reports receives from the third clerk the amount of the fees payable in respect of each certificate.

609. In the Report-office, they count the number of folios?—Yes; they mark upon the margin the number of folios and charge accordingly.

610. There are other fees besides those, such as preparing powers of attorney?—Yes; the profits of those are divided between the first clerk and the second clerk in each division.

611. None of those fees for drawing powers of attorney, or for transcripts of accounts, are paid into the Fee Fund, but they are solely divided between the first and second clerk?—Yes.

612. In addition to that the first clerk gets the salary of 500*l.* and the second clerk 360*l.*?—Yes.

613. Under what authority are those fees received?—I am not aware of any authority for it except by custom.

614. Do they appear in Lord Hardwicke's Orders?—I think not. I have drawn out a statement of the working of the Accountant-general's office from its commencement. Formerly the Accountant-general was paid by fees; there then were certain fees allowed; amongst them were fees for copies of accounts, and the fee upon every copy of an account went to the Accountant-general.

[*The Statement was delivered in, and is as follows :*]

“ORIGIN of the ACCOUNTANT-GENERAL'S OFFICE, and of the SUITORS' FUND, with an Account of the subsequent Enlargement of both.

“By the Act of the 12 George 1, c. 33, intituled an Act for the Relief of the Suitors of the Court of Chancery, it appears that five of the Masters of the said Court had been deficient in answering the money and effects of the suitors ordered by the Court to be deposited in their hands. The Lord Chancellor, by the direction of his then Majesty, did by several orders on the said Masters direct an examination into the claims of the suitors of the said Court. These orders, as well as several orders relating to the defaulting Masters, will be found in Sanders' Orders, p. 465 *et seq.* It was found that besides the deficiency of one of the said Masters, which it was supposed he would be able to make good himself, and after what should be made good and produced by and out of the estates of the said deficient Masters, and also after applying the fine of 30,000*l.* imposed on Lord Macclesfield, which was given by His Majesty, on the address of the House of Commons, towards making up the deficiency of the said suitors of the Court of Chancery, the deficiency was computed to amount to the sum of 51,851*l.* 19*s.* 11*d.* besides several other claims submitted to the determination of the Court. To make up this deficiency, it was enacted, that from and after the 2d August 1726, there should be through England and Wales, and Berwick-upon-Tweed, raised, collected, and paid during the term of 16 years, above the rates and duties then paid for any piece of vellum or parchment, or piece of paper upon which any original writ (except an original writ upon which a writ of capias issued), in any court where the bill or demand amounted to 40*s.* or upwards, 6*d.*; and for any piece on which should be written or engrossed a citation or monition of any Ecclesiastical Court, 6*d.*; and for any action in the Lord Mayor's Court or Sheriffs' Court of London, the Courts of Corporation, and other Courts whatever, in which the debt or damage amounted to 40*s.*, 6*d.* All officers collecting the duties arising from the said Act were to keep a separate account of the same, and the payments were to be made weekly every Wednesday (except the same was a holiday) into the Bank of England, and entered into a book to be kept for that purpose at the Bank, and to form part of the suitors' general cash. If the Court thought it necessary, in order to answer the demands of the suitors, they were empowered to borrow money on the duties or funds created in the said Act, not exceeding in the whole 60,000*l.*, and to make orders for the payment of the same, together with interest at the rate of 5*l.* per centum per annum; which sum so borrowed was to be paid into the Bank, and made part of the general cash for the benefit of the said suitors.

“It was also enacted that all the money or cash then deposited in the Bank, or at any time afterwards deposited in the Bank on account of the suitors in Chancery, and all the money arising by rates and duties given by the said Act, or borrowed and paid into the Bank, were to be taken as one common and general cash, and be promiscuously used in answering the demands of the suitors.

“It was also enacted that as soon as the deficiency of the Masters was made up, any surplus collected and arising from the said duties was to be reserved for the benefit of the public. In the same year the first Accountant-general was appointed, in the place of the Masters and Ushers of the Court, by an order of 29 June 1726 (Sanders' Orders, p.

521), made in pursuance of the Act of 12 Geo. 1, c. 32, intituled an Act for the better securing the Monies and Effects of the Suitors, &c. He had two clerks, and was paid by taking the following fees, viz. for every report or certificate before hearing, the sum of 10*s.*; for every report or certificate after hearing of any cause or matter in lunacy or bankruptcy, &c., 1*l.* For any receipt of draft or certificate for payment of money out of court, 2*s.* 6*d.* For the clerk for drawing or transcribing any report or certificate, 5*s.*; if the suitors desired a copy of any account, they had to pay a reasonable reward for the same. All these fees were received by the clerks, and paid over to the Accountant-general, who paid his chief clerk 200*l.*, and his under clerk 70*l.* a year for their respective salaries.

“On balancing the first account with the Bank, in 1726 it appears there were 415 causes and accounts, 589,553*l.* 14*s.* securities, and 152,037*l.* 4*s.* 6*d.* cash belonging to the suitors, but only 47,985*l.* 10*s.* 5*d.* cash was in the Bank; the Masters' deficiency proving to amount to 104,051*l.* 14*s.* 1*d.*

“The fees received by the Accountant-general and his clerks were found to be a great burden to the suitors, especially in the transfer and acceptance of small sums, and as the monies arising from the rates and duties were to be promiscuously used, it was found from several years' experience, that a considerable balance was always lying in the Bank, unappropriated by the Court, and also that there was then standing in the books of the Accountant-general the sum of 284,793*l.* 4*s.* 2*d.* belonging to the suitors, and in the Bank the sum of 181,825*l.* 6*s.* 3*d.*, after allowing for the total deficiency of the Masters. It was therefore, by an Act 12 Geo. 2, c. 24, enacted that out of the unemployed cash in the Bank belonging to the suitors, a sum not exceeding 35,000*l.* should be invested in the purchase of Exchequer tallies (subject to being sold at any time to answer the demand of the suitors). In pursuance of an order dated 2d July 1739 (Sanders' Orders, p. 549), made under the provisions of that Act, 34,939*l.* 1*s.* 6*d.* was invested in the purchase of 36,850*l.* Exchequer tallies, and out of the interest arising from the same, 650*l.* was paid to the Accountant-general, 250*l.* to his first clerk, and 120*l.* to his second clerk, for their salaries, pursuant to the same order.

“As the interest of the tallies amounted to 1,105*l.* 10*s.*, and the salaries of the Accountant-general and his clerks amounted to 1,020*l.*, there was a surplus of 85*l.* 10*s.* a year; this surplus was invested by an order of Court, and carried to a surplus interest account. In 1748, the deficiency of the Masters was declared by the Court to be made up, and on comparing the Accountant-general's books with those in the Bank in October 1749, the cash belonging to the suitors was 196,545*l.* 4*s.* 11*d.*, and the amount of cash in the Bank 161,606*l.* 3*s.* 5*d.*, which was the exact balance, after deducting the said sum of 34,939*l.* 1*s.* 6*d.* laid out in the purchase of 36,850*l.* Exchequer tallies. By an order of the Court, dated 2d November 1752, the Exchequer tallies were exchanged for the same amount of Bank 3*l.* per cent. Annuities.

“By the Act 4 Geo. 3, c. 32, a sum not exceeding 5,000*l.* was authorized to be invested out of the suitors' general cash, and a sum of 120*l.* a year to be paid to a third clerk in the Accountant-general's office; the sum of 4,995*l.* 5*s.* was accordingly invested in the purchase of 5,800*l.* Bank 3*l.* per cent. Annuities, the interest whereof was 174*l.* a year, and the payment out 120*l.*; and the surplus interest of 54*l.* per annum was in like manner invested.

“By the Act 5 Geo. 3, c. 28, it was enacted, that out of the suitors' general cash a sum not exceeding 80,000*l.* should be invested, and out of the interest 200*l.* a year paid to each of the 11 Masters of the said Court; 79,983*l.* 16*s.* 3*d.* was accordingly invested in the purchase of 91,350*l.* Bank 3*l.* per cent. Annuities, the interest of which was 2,740*l.* 10*s.*, and the payments to the 11 Masters afore-mentioned, 2,200*l.* The surplus interest, amounting to 540*l.* 10*s.* per annum, was also duly invested, from time to time, as well as the interest accruing from such investment.

“By the Act 9 Geo. 3, c. 19, it was enacted, that out of the suitors' general cash a sum not exceeding 20,000*l.* should be invested, and out of the interest 250*l.* was directed to be paid to the Accountant-general, 50*l.* to his first clerk, 40*l.* to his second, and 120*l.* to a fourth clerk; 19,969*l.* 7*s.* 6*d.* was accordingly invested in the purchase of 22,250*l.* Consols; the interest of this was 667*l.* 10*s.* a year, and the payments 460*l.* This surplus was also duly invested.

“By the Act 14 Geo. 3, c. 43, it was ascertained that the surplus interest under the aforesaid Acts so invested amounted to 10,200*l.* Bank 3*l.* per cent. Annuities, and 14*l.* 7*s.* 2*d.* cash; and it was thereby enacted that 50,000*l.* more of the general cash of the suitors should be invested, which was accordingly done, and produced 56,513*l.* 7*s.* 11*d.* Consols. And it was thereby enacted that the said 10,200*l.* stock, and 14*l.* 7*s.* 2*d.* cash (the amount of the difference of

the interest of the sums invested, and the sums paid thereout, as well as the interest to accrue on the last-mentioned 50,000*l.* when so laid out, should be applied towards rebuilding the Six Clerks office, buying the ground and paying the expenses of that Act, as well as the sum of 10,000*l.* in erecting offices for the registrars and Accountant-general and purchasing ground, &c.

"By the Act 17 Geo. 3, c. 59, an Act of 12 Charles 2d was repealed, which enabled the Master of the Rolls for the time being to grant building leases for 41 years, and let any of the houses built on the Rolls Estate (other than the chapel, mansion-house, garden, stables, &c.) for 21 years. In this year (videlicet 1777) the ground rents of the houses amounted to 135*l.* and the improved rents, &c., to 1,977*l.*; the said improved rents belonging to the Master of the Rolls, who granted such leases as his private property, the succeeding Masters of the Rolls were consequently deprived of the benefit of the improved rents, and the income of the Master of the Rolls intended for the support of his office was rendered precarious and uncertain. Sir Thomas Sewell, the then Master of the Rolls, was possessed and entitled to the right and interest of the several leases made by him, and the improved rents thereof, and also of such other leases as might be made by him while he continued Master of the Rolls. It was proposed to give to the Earl of Macclesfield, residuary legatee of Sir Thomas Clarke, deceased, then late Master of the Rolls, as an equivalent for the improved rents arising from leases granted by the said Sir Thomas Clarke, the sum of 8,449*l.* 7*s.* 9½*d.*, and to Sir Thomas Sewell the sum of 12,580*l.* 3*s.* 1*d.*, in full satisfaction of their respective interests in the Rolls houses under the said Act 12 Charles 2d, which the said Earl of Macclesfield and Sir Thomas Sewell agreed to accept. It appearing that the amount of cash then belonging to the suitors was 378,587*l.* 11*s.* 4*d.*, out of which the sum of 199,987*l.* 10*s.* 3*d.* had been invested under the aforesaid Acts, leaving a total of cash in the Bank of 167,404*l.* 7*s.* 11*d.*; and that there was a surplus income of 2,582*l.* 18*s.* after paying the salaries, &c.; it was calculated that this surplus income would in 10 years pay off this 21,295*l.* 13*s.* 2*d.* and the expenses of obtaining the Act. It was therefore enacted that the sum of 12,580*l.* 3*s.* 1*d.* should be paid to Sir Thomas Sewell, and 8,449*l.* 7*s.* 9½*d.* to the Earl of Macclesfield, out of the suitors' general cash, and should be paid back to the said cash out of the surplus interest after paying all the demands for the salaries and buildings before mentioned, with power to the Lord Chancellor to mortgage the whole of the Rolls houses (except as afore-mentioned), to raise money on the said estates if the money was wanted for the suitors of the Court. On the 25th August 1794, the whole of the said sum had been made good from the surplus interest, and the account declared balanced by the Court.

"By the Act 32 Geo. 3, c. 42, 300,000*l.* cash, part of the said suitors' general cash, was invested in the purchase of 324,955*l.* 18*s.* 10*d.* stock; out of the interest and dividends on the said stock, there was directed to be paid to the Accountant-general's fifth clerk 120*l.*, to his sixth 120*l.*, to his seventh 100*l.*, and 100*l.* to an additional or eighth clerk; and also an increased salary of 100*l.* to the first, 140*l.* to the second, 80*l.* to the third, and 30*l.* to the fourth; and also any sum not exceeding 30,000*l.*, as the Lord Chancellor should order, in completing and building offices for the Masters in Chancery and their clerks, secretary of bankrupts and lunatics and their clerks, and safe repositories for the records, &c., in the said offices, and a public office for the suitors. And it was also enacted, that as soon as the 21,295*l.* 13*s.* 2*d.*, directed to be paid under the former Act of 17 Geo. 3, c. 59, was paid, all the securities purchased under former Acts and this Act were to make one aggregate fund, and to be carried to the "Account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery;" and the surplus interest, after defraying the charges thereon, was authorized to be laid out in the purchase of stock, and placed to an "Account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery;" and both of these funds were to be applied to answer the demands of the suitors, in case it was necessary at any time to call in any of the money of the said suitors.

"Although at the time of the investment of the last-mentioned 300,000*l.* the cash belonging to the suitors was 862,881*l.* 9*s.* 7*d.*, and the cash in the Bank 651,698*l.* 6*s.* 2*d.*, yet in the balance of 1797, the cash belonging to the suitors was reduced to 489,887*l.* 10*s.* 3*d.*, and the investments before mentioned overdraw the account 25,666*l.* 8*s.* 3*d.*; the Bank of England advanced the money required to meet the demands of the suitors, and the following year the amount overdrawn was repaid, and at the balance, 43,995*l.* 16*s.* 4*d.* was found to be in the Bank.

"By the Act 46 Geo. 3, c. 128, it was enacted that there should be paid 400*l.* a year out of the said interest on the Suitors' Fund to each of the 11 Masters in Chancery, in addition to their respective salaries, under 5 Geo. 3, c. 28; and also out of the same interest, it was enacted, that an annuity should be paid, not exceeding 1,500*l.*, to any of the Masters who had been a Master for 20 years, or afflicted with any permanent infirmity.

"By another Act (46 Geo. 3, c. 129) it was enacted, that out of the aforesaid interest on the Suitors' Fund, there should be paid to the Accountant-general's first clerk 100*l.*, to the second 100*l.*, to the third 200*l.*, to the fourth 250*l.*, to the fifth 180*l.*, to the sixth 180*l.*, to the seventh 200*l.*, in addition to their former salaries; and to four additional clerks, that is to say, to the eighth 180*l.*, to the ninth 180*l.*, to the tenth 180*l.*, to the eleventh 180*l.*, and to the Accountant-general 200*l.* per annum for furniture, books, &c.

"By the Act 49 Geo. 3, c. 69, it was enacted, that out of the aforesaid interest on the Suitors' Fund, there should be paid to the two senior deputy registrars 550*l.* each, to the first clerk in the Registrar's office 330*l.*, to the second 275*l.*, to the third clerk the sum of 220*l.*, to the fourth clerk the yearly sum of 165*l.*, to the fifth 110*l.*, to the sixth 110*l.*, to the seventh and eighth 55*l.* a year each, and to each of the entering clerks 275*l.*; and also salaries to four additional clerks to be employed in the Report-office, to the first 330*l.*, to the second 220*l.*, to the third 198*l.*, and to the fourth 132*l.*, such yearly payments to be taken by the clerks to the registrars and entering clerks as a full satisfaction for persons to assist them in writing; and there was to be paid to them, by order of Court, all sums which they might necessarily have expended from 5th April 1804, for books, &c., and also an annual sum of 110*l.* to the keeper of the reports and books of entries, and to each of the four deputy registrars, for expenses incurred in future in providing books, &c. And it was further enacted, that in case any of the four deputy registrars should be afflicted with any permanent infirmity, the Lord High Chancellor might order an annuity, not exceeding 1,100*l.*, to be paid out of the aforesaid interest, to such deputy registrar who should be so incapacitated.

"By an Act, 50 Geo. 3, c. 164, it was enacted, that out of the suitors' general cash the further sum of 200,000*l.* should be invested, and it was accordingly invested in the purchase of 57,553*l.* 19*s.* 2*d.* Reduced Annuities, and 232,332*l.* 6*s.* 4*d.* Consols; and it was directed that out of the interest and dividends (on the Suitors' Fund) arising from the securities purchased by that Act and by any former Act, after payment of all salaries before directed to be paid, a sum not exceeding 12,000*l.* was to be applied, under direction of the Court, for rebuilding, erecting, and repairing convenient offices, wherein the business of the Examiners' cursitory clerk of the Crown, and clerks of the Petty Bag might respectively be permanently transacted. And it was also enacted that any number of persons, not exceeding four, as the Lord Chancellor should direct, might be appointed for the purpose of preserving order in the said Court; and that out of the said interest and dividends (on the Sutor's Fund) there should be paid to the committee of Henry Flitcroft, a lunatic, one of the principal Examiners, the sum of 300*l.*; to James Dancer, Deputy Examiner, the sum of 300*l.*; to John Smith, John Nursey Dancer, and John Alexander Berry, three other Deputy Examiners, for life, 200*l.* each; to each of the Examiners, 300*l.*; to the persons to keep order, 40*l.* each; to the usher, 300*l.*; to the court-keeper, 90*l.*; and to the two junior clerks of Petty Bag, 15*l.* each; and from time to time, by order of the Court, to the usher and court-keeper, such sums as they should have *bond fide* paid in the purchase of parchment, stationery, &c. for the use of the Court. And it was further enacted that there should be paid, by order of Court, the sum of 300*l.* per annum to any Examiner who should have acted in that capacity for the space of 30 years, or who should be afflicted with any permanent infirmity, and 100*l.* per annum to any sworn clerk or clerks of the Examiners who should be so incapacitated.

"By the Act 52 Geo. 3, c. 54, it was enacted that the Lord Chancellor might order an annuity to be paid to any clerks in the Accountant-general's office after 30 years' service, and to any clerks becoming infirm, after 15 years service, such annuity not to exceed the yearly sum payable to such clerk at the time of making his application for such annuity. And the Chancellor was empowered by the said Act to apply any sum not exceeding 500*l.* in any one year, in making additions and alterations in the offices of the Registrars, the Accountant-general, &c. &c.

"By an Act, 53 Geo. 3, c. 34, a Vice-Chancellor was appointed. And it was enacted that out of the suitors' general cash a sum of 60,000*l.* should be laid out, (which was accordingly laid out in the purchase of 100,450*l.* 4*s.* 8*d.* Consols,) and out of the interest and dividends (on the Suitors' Fund) arising from the stock purchased by the

said Act and former Acts, without prejudice to any former payments, the sum of 5,000*l.* was directed to be paid to the said Vice-Chancellor, as also 200*l.* to his secretary, 100*l.* to his trainbearer, and 80*l.* to his usher. And it was also further enacted that the Lord Chancellor for the time being should pay or cause to be paid out of the fees received by him the sum of 2,500*l.* by quarterly payments into the Bank, to the account of interest and dividends arising from the securities purchased, &c.

"By an Act 55 Geo. 3, c. 64, it was enacted, that out of the aforesaid interest (on the Sutors' Fund) the following additional salaries should be paid: to the secretary of the Vice-Chancellor, 300*l.*; to his usher, 120*l.*; to the Accountant-general's first clerk, 100*l.*; to the second, 100*l.*; to the third, 100*l.*; to the fourth, 100*l.*; to the fifth, 80*l.*; to the sixth, 60*l.*; to the seventh, 40*l.*; to the eighth, 70*l.*; to the ninth, 60*l.*; to the tenth, 30*l.*; and to four additional clerks, namely, a twelfth, thirteenth, fourteenth, and fifteenth, 180*l.* each. And it was further enacted, in case that it should be found necessary, three more additional clerks were authorized to be appointed to the said Accountant-general's office, with salaries of 180*l.* a year each.

"By 58 Geo. 3, c. 80, 200,000*l.*, part of the suitors' cash, was invested in the purchase of 64,000*l.* Reduced Annuities, and 191,002*l.* 13*s.* 2*d.* Consols, and placed to the before-mentioned account. And it was enacted, that out of the interest on the Sutors' Fund the following additional salaries should be paid: to the first clerk of reports, 170*l.*, to the second, 180*l.*, third 152*l.*, fourth, 168*l.*, and to three additional clerks the sum of 150*l.* a year each. And in case it should appear necessary, the Court was empowered to appoint three additional clerks in the Report-office at 150*l.* a year each, the said clerks to produce at the Bank, before payment of their respective salaries, a certificate, signed by the Master of the Report-office, that they had diligently and faithfully in all things fulfilled the duty and office of a clerk to the said Master.

"By an Act, 59 Geo. 3, c. 27, it appears that some doubts having arisen as to the title of the suitors' accounts (although they were correctly raised), it was thought that all the Acts did not authorize them, and the stock and cash were directed to stand as follows: Money laid out under the various Acts before mentioned was to be entitled, 'Account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery,' and the interest arising therefrom was to be placed to an account, entitled, 'Account of interest arising from securities carried to an account of monies placed out for the benefit and better security, &c.;' and the securities purchased, with the surplus interest on the last-mentioned account, were directed to be placed to an account entitled, 'Account of securities purchased, with surplus interest arising from securities carried to an account of monies,' &c., and the interest on the said last-mentioned securities, when received, were to be placed to an 'Account of interest arising from securities purchased with surplus interest arising from securities carried to an account of monies, &c.' These funds now form the Sutors' Fund. By the same Act it was also enacted, that notwithstanding the provisions contained in this Act, if at any time hereafter the whole or any part of the monies placed out pursuant to the several Acts should be wanted for the demands of the suitors, the Court might direct the whole or any part of such monies to be called in, and the securities in which the same were invested, to be sold, in order that the suitors of the said Court might at all times be paid their respective demands out of the common and general cash belonging to such suitors.

"By an Act for giving the Judges of the common law courts certain salaries (2 & 3 Will. 4, c. 116), the Vice-Chancellor of England was to have 6,000*l.* a year paid to him out of the Consolidated Fund, in lieu of his salary of 5,000*l.* out of the Sutors' Fund.

"By another Act (2 & 3 Will. 4, c. 122), the Lord High Chancellor was to have a salary of 10,000*l.* a year paid him out of the Sutors' Fund, and the fees formerly received by the Lord Chancellor were to be paid into the Bank to an account, entitled 'Account of fees formerly payable to the Lord Chancellor.' The sums so paid in were directed to be from time to time invested in securities, and placed to the account of securities purchased with surplus interest, &c.

"By a subsequent Act, 5 & 6 Vict. c. 84, s. 12, these fees were to be paid into the Sutors' Fee Fund.

"By an Act (2 & 3 Will. 4, c. 122), 150,000*l.* of the suitors' general cash was to be invested in securities, and the same was laid out in the purchase of 179,875*l.* 13*s.* 11*d.* Reduced Annuities.

"By the Act of 3 & 4 Will. 4, c. 94 (commonly called 'The Chancery Regulation Act'), the following offices were abolished, viz. Master of Report-office, Entering clerks or

Entering registrars, registrars, and agent to senior deputy registrar, and the then deputy registrars were made registrars; and by the same Act there were appointed six clerks and two assistant clerks to registrars; an officer, to be called master of reports and entries; a clerk of reports; two clerks of entries; nine clerks of accounts, and two clerks of affidavits, and their salaries and compensations were directed, by the 33*d.* section of the same Act, to be paid out of a fund to be raised, and called the Sutors' Fee Fund.

"The salaries of some of the said officers which had been charged upon the Sutors' Fund no longer remain charged on that fund. The Masters of the Court, other than the Accountant-general, were to be paid out of the Sutors' Fund a salary of 2,500*l.* per annum each, (in lieu of all fees, and of the sum of 600*l.* per annum formerly paid to them out of the interest on the Sutors' Fund). The Masters named in the Act were also to have a compensation of 725*l.* a year paid to them out of the Sutors' Fee Fund; but the Masters were no longer entitled to their retiring pensions for length of service, but only on permanent infirmity.

"By the 1 & 2 Vict. c. 54, power was given to the Lord High Chancellor to make orders for the investment of any part of the suitors' general cash in securities, and to appoint additional clerks and officers, if thought necessary, and to give them such salaries out of the Sutors' Fund as his Lordship, with the advice of the Lords of the Treasury, should think fit. By same Act, power is given to the Court of Exchequer to make orders for the investment of any part of the suitors' general cash in that Court.

"Under this Act, 1,187,576*l.* 10*s.* 4*d.* has been from time to time invested in the purchase of 1,208,666*l.* 14*s.* 2*d.* securities. Although in the investment of this cash the average weekly balances in the Bank herein-after mentioned would have allowed more than 120,000*l.* for the minimum, yet it was afterwards found necessary to sell 303,098*l.* 2*s.* 6*d.* stock, in order to replace on the general account of the suitors' cash 300,000*l.* to answer the demands of the suitors. The balance of cash invested under the said Act is, therefore, 887,576*l.* 10*s.* 4*d.*, and stock purchased, 905,568*l.* 11*s.* 8*d.* For the purpose of keeping a watch upon the suitors' general cash, the Accountant-general's chief clerk makes up and compares with the Bank the balance of cash every Monday morning, in order that if the general balance of cash at the Bank is getting very low, an order may be obtained from the Lord Chancellor to sell so much of the stock invested as will raise sufficient cash, to be added to the suitors' general cash, to answer their demands. Under this Act the Accountant-general's chief clerk has received an additional salary of 200*l.*, and the clerk of affidavits, 300*l.*

"By the 3 & 4 Vict. c. 94, the Lord High Chancellor is authorized to direct an additional compensation to be paid out of the Sutors' Fund for any decrease of emolument to the various officers caused by any reduction of fees.

"By the 5*th.* of Vict. c. 5, the equity side of the Court of Exchequer was abolished, and the stock purchased by Act of 1 Geo. 4, c. 35, out of the general cash belonging to the suitors in the Court of Exchequer, unappropriated by that Court, (viz. 65,000*l.* cash, in the purchase of 47,882*l.* 2*s.* 9*d.* Consols; and 47,445*l.* 5*s.* 2*d.* Reduced, 20,757*l.* 18*s.* 11*d.* Consols, purchased with surplus interest arising from the aforesaid stock; as well as 100,000*l.* Bank 3*l.* per cents. purchased with 93,568*l.* 2*s.* cash, and 100,000*l.* Reduced Annuities, purchased with 94,008*l.* 8*s.* 4*d.* out of the general cash, pursuant to 1 & 2 Vict. c. 54, in the Court of Exchequer,) was directed to be placed to the account of monies placed out to provide, &c., and the interest on the same to be applied promiscuously with the other interest on the Sutors' Fund. The same Act also directs the Accountant-general of the Court of Chancery to pay into the Bank the sum of 150*l.* a year out of his brokerage to the account of interest arising from securities purchased, with surplus interest, &c.

"By the same Act two Vice-Chancellors were appointed, with a salary of 5,000*l.* a year each; a secretary to each, with 300*l.* a year; an usher to each, with 200*l.* a year; a trainbearer to each, with 100*l.* a year; four persons to keep order, 40*l.* a year each, two of such persons to attend each Vice-Chancellor. The Accountant-general of the Court of Exchequer was appointed a Master in Chancery, with a salary of 2,500*l.* a year; his chief clerk was appointed his first clerk, with a salary of 1,000*l.* a year; his second clerk as his junior clerk, with a salary of 150*l.* a year; the salaries of these two clerks to be paid out of the Sutors' Fee Fund account, and the salaries of the others out of the Sutors' Fund account.

"By the same Act it was enacted, that any sum not exceeding 5,000*l.* might be paid for the removal of books, alteration of buildings, &c. As there was no provision under this Act for carrying on the increased business of the

Accountant-general's office, four additional clerks were appointed under the provisions of the same Act of 1 & 2 Vict. c. 54.

"The Accountant-general's office was, owing to the increased business brought from the Exchequer, divided into four departments instead of three, and five clerks to each department, in lieu of six clerks to each of the three former departments. From the great increase of business it was soon found necessary to appoint four more additional clerks, so as to give six to each division; lately four additional clerks at 100*l.* per annum each have also been appointed under the same Act of 1 & 2 Vict. c. 54, in the office of Clerks of Accounts, and the salaries of these additional clerks are all, under the same Act, paid out of the interest on the Suitsors' Fund.

"The following are the present salaries paid under the said Act of 1 & 2 Vict. c. 54, and former Acts:—To the clerks in the Accountant-general's office, viz. one chief clerk, 800*l.*; four first clerks in each of the four divisions, 500*l.*; four second clerks, 360*l.* each; four third clerks, 240*l.* each; four fourth clerks, 180*l.* each; four fifth clerks and one sixth clerk, 120*l.* each; to three other sixth clerks, and a clerk who assists the chief clerk, 100*l.* each.

"By an order of the Court of 24 July 1839, the solicitor to the suitors is paid a salary of 600*l.* a year in lieu of costs, and the surveyor of the court 80*l.* a year; and the present compensation awarded to the late officers of the Court of Exchequer amounts to about 5,900*l.* a year, and these last-mentioned salaries and compensations are paid out of the Suitsors' Fund.

"The total amount of stock now standing in the account of monies placed out to provide, &c., is 2,385,088*l.* 2*s.* 6*d.*; on the account of securities purchased with surplus interest, 1,094,604*l.* 10*s.* 10*d.* The dividends received on the said funds during the last year, from October 1846 to October 1847, with the payment of 150*l.* made by the Accountant-general, amounted to 101,241*l.* 5*s.* 11*d.* The payments thereout, as appears by Account No. 1 (*vide* Answer 788, *post*), was 70,344*l.* 15*s.* 4*d.*, leaving a surplus income of 30,896*l.* 10*s.* 7*d.*

"The foregoing statement will show that the Suitsors' Fund has not arisen from dead cash upon any particular cause or account, but from the general balances of cash of the suitors in the Accountant-general's name at the Bank. Part of the floating cash has been from time to time laid out by the Court, and the interest applied for the ease of the suitors, instead of allowing the Bank having all the benefit of such a large floating balance, in the same way as any banker would do with deposits in his Bank. The floating cash has always been laid out in Government securities (except the sum which was advanced upon the Rolls' estate), so as to be sold at any time to answer the demands of the suitors. The average price at which the securities were purchased was about 86½, so that in case the stocks should be below that price, at the time the whole thereof was required to be sold to answer the demands of the suitors, there would be the securities purchased with surplus interest, amounting to 1,094,604*l.* 10*s.* 10*d.*, to fall back upon to make up any deficiency occurring from the investment of the suitors' cash.

"It was some time since generally supposed that there were large amounts of stock standing in the Accountant-general's name at the Bank, upon which the dividends had not been applied for a great many years, but it will appear from a return made to Parliament on the 1st October 1829, that the total amount of stock on which the dividends had not been received for five years previous to 1st October, 1829, was 201,558*l.* 1*s.* 3*d.*; for 10 years 70,498*l.* 6*s.*; for 15 years 28,288*l.* 16*s.* 11*d.*; for 20 years and upwards and as far back as any stock was taken under the care of the Court, 127,904*l.* 5*s.* 11*d.* Large balances of cash belonging to the suitors must always be remaining in the Bank, arising from various causes. The following are the totals of cash transactions during each year ending 1st October, for the last five years:

—	Cash received.			Cash paid.		
	£	s.	d.	£	s.	d.
1842 to 1843	-	4,715,544	18 5	4,575,243	0 10	
1843 to 1844	-	5,851,021	17 7	6,091,301	17 1	
1844 to 1845	-	8,858,673	0 10	8,766,442	17 2	
1845 to 1846	-	17,995,058	19 11	17,846,639	15 5	
1846 to 1847	-	7,252,008	16 9	7,333,760	18 3	

"The following are the total amount of securities transferred into the Bank in the name of the Accountant-general, and transferred out of the Accountant-general's name in

the Bank, for each year ending 1st October during the last five years:

—	Securities transferred in.			Securities transferred out.		
	£	s.	d.	£	s.	d.
1842 to 1843	-	4,107,386	9 7	3,076,887	13 10	
1843 to 1844	-	4,369,371	12 10	3,650,824	8 1	
1844 to 1845	-	8,972,168	5 11	8,039,421	14 7	
1845 to 1846	-	7,758,084	5 6	8,226,733	18 1	
1846 to 1847	-	8,782,486	2 6	7,654,510	14 7	

615. *Mr. Walpole.*] You said that certain fees were allowed; by what Order or by what Act of Parliament? There is no Act of Parliament.

616. Is there any Order of Court for it?—Not whatever.

617. *Chairman.*] It is mere practice?—Yes.

618. How long has that practice existed?—I cannot say.

619. Long before any person's recollection?—Long before.

620. Those fees are unchanged; they are the same fees that used to be demanded?—Precisely the same.

621. *Mr. Turner.*] They have not been increased?—They have not been increased; except some fees for special powers of attorney.

622. *Chairman.*] If the solicitor resisted paying the fee for the power of attorney, what would happen?—The clerk would not let him have it.

623. In the Return which has been made, it appears that there are certain gratuities paid to the first and second clerks in each division of the Accountant-general's office, which gratuities it appears, in the first three divisions, exceed the fees paid; what are those gratuities paid for; it appears from this account that there are "sums paid for extra official exertion and assistance, and for expedition;" is that what is meant by the gratuities which are specified in that column headed "Gratuities"?—Yes.

624. Will you explain what the "extra official exertion, and assistance, and expedition is, which is paid for?—If parties want a transfer or a sale of stock before the usual day for making such sale or transfer, the solicitor would intimate that he would give the clerks a fee or gratuity to get the commission for the sale or transfer sent directly to the broker, that it might be made for the next transfer day, and so also with regard to payments of cash out of Court, powers of attorney, or other matters which the solicitor is desirous of getting expedited.

625. If he did not do that he would not get it?—No, my opinion is that he would not get it done before the usual period; no demand for such gratuity, however, is made; it is left entirely with the solicitor.

626. *Mr. Walpole.*] Are they ever paid for making transcripts of accounts quicker than they otherwise would be made?—For copies of accounts 4*s.* per side is the fee, but sometimes a gratuity for expedition is given.

627. Under what authority are the salaries paid?—The salaries are under four or five Acts of Parliament.

628. Are they specified in this paper which you have delivered in?—They are.

629. Do those gratuities really afford means to the clerk for getting money from the solicitor for doing that which he would do without them, if gratuities were forbidden?—It strikes me that it would work just as well without; but I might observe that the salaries alone are at present so small, compared with some of the other officers of the Court, whose duties are not so onerous or responsible, that unless they received these gratuities they would be very much under-paid.

630. You think that the work of the office would go on exactly in the same way as it does now, if no fees or gratuities were allowed?—Yes; sometimes it is rather dangerous having a transfer made out of due course, because the party on the opposite side may be off his guard, and may want to get a stop order on the fund.

631. One strong motive for giving a gratuity and getting a transfer out of its due course would be the apprehension of a stop order?—The parties might want the money in a great hurry.

632. But if they apprehended a stop order, that would be an additional incentive to exertion?—Certainly.

633. The fees for examining legacy receipts are not paid by the suitors?—No, by the Stamp-office.

634. There is a gratuity paid by the Stamp-office of 10*s.* to each of the two senior clerks in each department, in order

not to allow any payment to go out of the Accountant-general's office upon which legacy duty would be payable at the Stamp-office, and for which a receipt from the Stamp-office is not obtained?—Yes, to induce the Accountant-general's clerk to be more vigilant in seeing that the legacy duty had been paid. I thought it would be useful to the Committee to draw out a list of the fees which have been paid into the Fee Fund by each individual officer, from the commencement of the Fee Fund.—(*The same was delivered in.*)

635. In the Accountant-general's office there is not much time taken up in taking the fees and making entries of the fees?—Very little time.

636. You have heard the evidence of Mr. Mortimer. How are the directions for the sale and purchase of stock made in the office?—All the stock standing in the Accountant-general's name stands in trust to attend the orders of the Court, and so in every stock department in the Bank of England and the East India House, and every place where there is stock standing in the Accountant-general's name. Before any sale or transfer takes place the registrars issue, pursuant to 12 Geo. 1. c. 32, a certificate, which is a copy of that part of the order directing such sale or transfer. That certificate, which is signed by the registrar, and the order, are brought by the solicitor to the Accountant-general's office, when one of the clerks compares the certificate with the order to see that it is drawn correctly, and then goes to the ledger to see that the same stock mentioned in the certificate is standing there, and if it is a sale that is to be made, he then gives the registrar's certificate to the broker, with directions to sell a certain amount of stock, or to sell so much stock as will raise a certain amount of cash, as the case may be. The broker takes that certificate to the Bank, and the clerk at the Bank examines it with the check-office in the Bank, and sees that the title of the cause and the amount are right, and then the broker proceeds to make the sale for the next transfer day. The broker in the evening sends up a broker's note that he has sold so much stock, say 1,000*l.* stock, at a certain price, and stating the amount of the cash arising from the sale. That broker's note is checked in the office by one of the junior clerks, and a direction is drawn for the Bank, upon the stock being sold, to place the cash to the account mentioned in the registrar's certificate, and then when the day for which the sale is made arrives, the Accountant-general goes to the Bank and has given to him the registrar's certificate which has been previously sent to the Bank, and also a receipt for the cash arising from the sale, to show that the Bank have got the money; and upon the chief clerk reading over the registrar's certificate to the Accountant-general, having previously examined with each other those two documents, the Accountant-general signs the transfer in the Bank books.

637. Then the Accountant-general goes to the Bank and signs the transfer book?—Yes.

638. He goes there twice a week for that purpose?—Yes, on Tuesdays and Fridays; he makes no transfer till he has the Bank receipt produced to him for the cash arising from the sale.

639. In the books of the Bank there is a certain amount of stock standing in the name of the Accountant-general, and a certain amount of cash?—The Bank are compelled to keep an exact copy of our accounts in every cause; and if any sum in cash were paid out, and the amount not charged to the right account, it is apprehended that the Bank clerk paying the money would be liable to make it good.

640. *Mr. Turner.*] But the fund stands simply in the name of the Accountant-general?—It stands in his name as one fund; but under the Act of Parliament there is a separate office at the Bank, called the Chancery-office, where each account is entered causewise, and an exact copy kept of the Accountant-general's ledgers, so that every transaction is entered separately in the Bank books, causewise.

641. The amount of stock would be 50,000,000*l.* standing in the name of the Accountant-general; the cash would be 400,000*l.* or 500,000*l.* standing in his name to the general account, and that is subdivided into accounts kept in the Chancery-office at the Bank?—Yes.

642. That is with respect to your stocks in the Bank of England?—Yes.

643. *Chairman.*] What is the course pursued with respect to East India stock?—The Accountant-general, before the stock comes into Court, goes to the India House, and signs a declaration of trust, that he holds it to attend the orders of the Court of Chancery; and when he signs that declaration of trust, a certificate is signed by the clerk of the India House, which is afterwards filed at the Report-office, and a certificate is also signed by the Accountant-general that he has accepted the stock, and directing it to be placed to a

particular cause or account, which is taken by the Accountant-general's chief clerk to be filed at the Chancery-office of the Bank.

644. The East India House does not keep a transcript of the books of the Accountant-general?—No.

645. Then it is merely a sum of stock standing in the name of the Accountant-general?—Yes.

646. There are no cash balances kept at the East India House by the Accountant-general?—No.

647. There are various companies where a similar thing takes place; for instance, the London Dock stock would be held by the Accountant-general in the same manner?—Yes; before the stock goes into Court, the Accountant-general signs a declaration of trust; and then there is a certificate thereof handed to the Chancery-office at the Bank, and another certificate filed in the Report-office.

648. You have in your books exact accounts of every cause in the Court of Chancery, and of the amount of stock and securities of various sorts, and of the money standing to the credit of each cause, and all the various accounts of various parties in each cause, in the most detailed manner. When you make a transfer, and sell so much stock from such an account, and when you purchase so much stock in another account, you make an entry accordingly in the corresponding accounts in your books?—Yes.

649. Your authority for that entry is the price at which the broker informs you that the stock has been sold or bought?—Yes.

650. If you had the price given to you, you could make the transfer in the books exactly in the same manner, though the stock had not been actually sold?—There would be obliged to be a calculation.

651. Supposing there is 100,000*l.* stock to be sold in 50 causes, amounting altogether to 100,000*l.* stock, and that there are 40 other causes in which there is to be bought altogether 100,000*l.* stock, if you ascertained the price at which that stock was to be sold, as the amount of stock remaining in the name of the Accountant-general would be exactly the same, you might transfer so much stock from one cause to another cause in your books?—I do not see how that could be done. The stock might be sold and purchased on different days.

652. But the question assumes that they are purchased and sold on the same day?—It would be impossible for the Accountant-general to make the transfer on the same day that the broker takes the commission.

653. The question assumes that the Accountant-general has to buy and to sell 100,000*l.* on one day, that there are 50 accounts which sell, and 40 which buy, and that the two sets of accounts exactly balance each other. When the broker has told you the price at which it has been bought and sold, though in point of fact there has been stock transferred by the Accountant-general, and stock received by the Accountant-general, the amount of stock standing in his name in the books of the Bank would be exactly the same at the end of the day that it was at the beginning?—Exactly so in the general account; but each transaction is separately made by the Accountant-general, and posted separately in the Bank books.

654. But in the separate sets of accounts, there would be 50 causes which had sold stock amounting altogether to 100,000*l.*, and there would be 40 causes which had bought stock amounting altogether to 100,000*l.*?—Yes.

655. Now if you had the price at which that was sold, you could make the necessary entries in the book, without the fact of the stock being sold?—There would be a long calculation for each account, both for our office and the Bank.

656. Is it not made now for each account?—We have that from the broker; he tells us the amount he has actually sold and makes out transfer tickets for the Bank in each cause and account.

657. Supposing that the broker gave you the price of the day, you would make the transfer in the books exactly in the same way that the broker does now. The transaction would be the same as it is now, except that the broker would tell you the price of the day, instead of telling you the price he had actually bought and sold at?—The Accountant-general would have to transfer it from one account to another.

658. It would be exactly the same process which now takes place in your books. The result would be this, that as there would be no broker employed for making the sale and the purchase, the whole of the broker's commission, and the commission of the Accountant-general, would not arise; but the effect in the books would be exactly the same?—Except that there must be some individual to make the calculation for the Accountant-general's office, and the

Bank, and the various companies who hold stock for the Court. And there is another thing, that under the Act of Parliament constituting the office, the Bank cannot give the broker the cash for the stock purchased, without a draft stating precisely the amount of stock purchased, and the account to which it is placed.

659. But if you had somebody who told you the price, and you made a calculation what so much stock at such a price would fetch, the transaction in the books of the Accountant-general would be exactly the same as it is now?—It would, provided it would satisfy all the companies where the Accountant-general has signed a declaration of trust.

660. The Committee understand that at present the provisions of the Act of Parliament would render such a process impossible?—Yes, I think so.

661. Will you state what those are?—Before the Bank can honour the Accountant-general's cheque, they are obliged to have a receipt for the stock purchased, to show that the stock has been purchased, and placed to a particular account, before they will pay the broker the cheque. The cheque is framed in this way: "Smith v. Smith; Pay to Mr. Edward Mortimer 200*l.*, on his causing 200*l.* Three per cents. to be transferred to my account in trust, in the cause Smith v. Smith."

662. Is that done by Act of Parliament, or by regulation of the Court?—I think by Act of Parliament; it is the 12 Geo. 1. c. 32, the Act that was passed after the great deficiency of the Masters. I do not know whether Mr. Mortimer mentioned to the Committee that all transfers made by the Accountant-general out of Court are made without any brokerage whatever; there is no brokerage charged to the suitors for transfers of stock out of Court.

663. That is to say, if there is stock in a cause which is directed to be transferred to one of the parties in the cause, it is transferred to him without any brokerage?—Yes.

664. How is it with respect to stock transferred into the name of the Accountant-general?—That is done by the party himself.

665. And he pays the broker?—Yes.

666. The broker of the Accountant-general has nothing to do with that?—No.

667. What are the steps necessary for the purpose of getting stock transferred, or money paid to the Accountant-general?—The order is left with the clerk, and he draws a direction under the order authorizing the party to transfer it into Court with the Accountant-general's privy. In the direction is stated the amount to be transferred, and the cause or account to which it is to be placed is signed by the Accountant-general's chief clerk. That direction is taken to the Bank, and until that is done, the Bank will not allow the transfer to be made.

668. Does it not frequently happen that Exchequer bills and debentures of various sorts, and scrip, are deposited in the Bank with the privy of the Accountant-general?—Nothing but Exchequer bills.

669. Are not bonds and foreign securities?—No, they are put into a box, and the box is deposited. No foreign security is taken by the Accountant-general.

670. When those are ordered to be paid into Court, what is done with them?—The bonds are put into a tin box, and endorsed, and the box is deposited. The Accountant-general takes no charge of the contents of that box.

671. What becomes of the box?—It is deposited in the Bank of England with the privy of the Accountant-general, and if the parties want the interest on these bonds, they are obliged to have an order of the Court for the Bank to deliver the box to them.

672. If those bonds are ordered to be sold, by whom are they sold?—The box is delivered up, and the parties do what they like with them.

673. Does it not sometimes happen that they are ordered to be sold in the cause?—Exchequer bills are sometimes.

674. Not foreign securities?—No, they never come into Court; it is only the box that comes into Court; it is stated by the Accountant-general, in his certificate, to be "A box said to contain" so and so; it is so with plate, and a variety of other valuable articles.

675. Those are all deposited at the Bank of England?—Yes.

676. Never in any place at the Accountant-general's office?—Never.

677. The Court never takes any notice in those deposits of what the box contains?—No, neither the Bank nor the Accountant-general take any notice of the contents of the box.

678. In fact they are deposited in that mode in the box?—Yes.

679. Such things as railway debentures?—Yes, and mortgages and other similar securities.

680. *Mr. Walpole.*] Supposing that the foreign securities deposited are, under an order of the Court, afterwards directed to be sold, who carries out the sale?—There is an order made for delivery up of the box to the parties, who make the sale of the contents out of Court.

681. *Mr. Turner.*] Supposing it were known that there were in that box a certain number of foreign securities, would there be any difficulty in the Court directing that those foreign securities should be delivered out to A. B. to sell, and that A. B. should pay the money resulting from the sale into the Bank?—I think there would be. The great difficulty is, that in the foreign securities the coupons are cut off, and you cannot tell how many of them have been cut off, and it may be said that some of them have been stolen.

682. With reference to your statement that in case any of the securities are wanted to be sold the box is delivered up; are there not instances in which the Court may make its order that certain documents shall be taken out of that box and sold, and the money paid into the Bank?—I think that such an order has been made and then the box re-deposited, and the money paid in on affidavit.

683. You say that the Accountant-general takes no notice of foreign securities; can you state of what particular classes of stock the Accountant-general does take notice; is it only the various Government and Parliamentary securities, Bank stock, East India stock, and South Sea stock?—And whenever he can declare the trust in the books of the particular company.

684. Has it occurred to you whether that could be usefully extended, as there is now a great deal of railway stock in the country?—The Accountant-general would have to travel all over London to make his transfers; and there is another difficulty in it, the fear of a call; if there should be a call upon any of those shares the Accountant-general would not be able to meet it; and the great uncertainty of the dividend that the Company may declare.

685. But upon regularly-constituted railway companies, chartered companies, could not the orders of the Court be extended to those stocks with the same advantages which are experienced in the case of Bank stock and East India stock?—Yes, there has been one instance; London and Birmingham stock has been transferred in a lunacy matter into the name of the Accountant-general.

686. Do not you conceive that that might usefully be done?—I can hardly say; the sum that has been transferred in the London and Birmingham Company has been subject to several orders of Court; they are constantly getting new Acts of Parliament and altering the titles of their stock, and in each case it has been necessary to obtain a separate order of Court to authorize the payment of the dividends, and to enable the Accountant-general and the Bank of England to write off the old stock on the account and write on the new stock.

687. *Mr. Walpole.*] Has a declaration of trust been made in the case of the London and Birmingham Railway stock?—No.

688. *Mr. Turner.*] If the suggestion which has been made upon the subject of the Accountant-general transferring amounts of stock in his books from one cause to another, instead of going through the process of selling and purchasing, were to be adopted, would it not require a fresh establishment of clerks, for the purpose of making the calculations which would arise out of that state of circumstances?—Exactly; it must be done by a broker, or there must be some fresh establishment.

689. It would come to this, that if a sum, say of 12,000*l.*, were ordered to be laid out in the purchase of stock, you would have to make a calculation how much of the stock sold would produce that 12,000*l.*?—Yes, and that stock has been purchased perhaps at a great variety of prices.

690. Then again, there must be some mode of ascertaining the average price of the day?—Yes. But waiting the average price of the day might cause a great loss to the parties, as the commission is executed by the broker as soon as possible after the solicitor has left it.

691. *Mr. Walpole.*] Supposing a broker was paid a salary for the duty of making such calculations, would not he transact the whole business of the Court of Chancery with reference to that?—Yes, just as he does now; our broker has now three or four clerks, but sometimes he is not able to send us the calculations till 10 or 11 o'clock at night; and just before the shutting of the books they have been as late as two o'clock in the morning.

692. *Chairman.*] You mentioned powers of attorney which are required; you are aware that for the receipt of dividends, or the receipt of cash in bankruptcy, the Accountant-general does not require any power of attorney?—No, I think not; I do not know whether he pays to each individual creditor or not; I think he pays the official assignee, who distributes the dividend among the creditors.

693. Is there any reason why powers of attorney should be required in these cases; why should not the Accountant-general, upon authority being given, pay the money at once to the party?—If the party resides in the country, and he cannot come up to receive the dividend, there must be a power of attorney; the Accountant-general is required to give the cheque to the party mentioned in the order, and then the party mentioned in the order, if he cannot come himself sends a power of attorney.

694. In bankruptcy he does not; he merely desires that it should be paid to a particular person. In bankruptcy the cheque is payable to the party or bearer. Supposing he ascertained that the person who came for the money was his agent, and had authority to receive it, would a power of attorney be necessary for that purpose?—I think so.

695. A power of attorney is only a mode of ascertaining that the person has due authority to receive the sum?—I am not aware of the provisions of the Stamp Act, but I think that under the Stamp Act you must have a power of attorney. The power of attorney consists of two parts. The first part of the power is for the Accountant-general to deliver the cheque to the party mentioned in the order. The second part of the power relates to the Bank, as they are to pay to the party mentioned in that power. The powers of attorney are lodged in the Accountant-general's office for the Bank to look at.

696. If the Accountant-general directed the Bank to pay a particular individual, that would be a sufficient authority to the Bank?—Yes.

697. If the Accountant-general is directed under the order to pay a particular individual, upon that individual giving an authority to another to receive it, would not that dispense with the power of attorney?—But there would be no power given for another party to receive that cheque. The cheques in the Accountant-general's office are not cheques payable to bearer, but to the individuals named in the order.

698. If the Accountant-general had an order to pay a certain dividend to me, upon my authorizing him to pay it to another person, would not that be equally good authority instead of a power of attorney; is there any Act which makes a power of attorney necessary for the purpose?—The Act of Parliament says that the Accountant-general shall pay to the individual.

699. He would equally pay to the individual if he paid to the individual's agent. Is not an authority in writing sufficient without a power of attorney; can you say what the expense of these powers of attorney is to the suitors in the course of a year?—I cannot.

700. There is a fee for preparing the power of attorney of 5s.?—It should be 5s. 6d.

701. It appears by the account here stated, that the fees for these powers of attorney amount to something near 600l.?—Yes; in addition to that there is the stamp duty.

702. What is the whole expense of a power of attorney?—The fee for making it out is 5s. 6d. If it is for the receipt of dividends it is a 1l. stamp; if for anything else it is a 30s. stamp.

703. And in addition to that there is the expense of preparing it?—Yes.

704. So that upon the average it would vary from something like 30s. to 2l.?—1l. 15s. 6d. for the receipt of principal money, and 1l. 5s. 6d. for interest, besides the solicitor's charges.

705. You cannot make out from these returns the number of powers of attorney every year in the Court of Chancery?—No; it might be easily ascertained.

706. There would be between 2,000 and 3,000 powers of attorney?—Yes.

707. The suitors must be taxed to the amount of something between 5,000l. and 6,000l. a year for the mere expense of powers of attorney?—Yes; many suitors, instead of taking out powers of attorney, will let their dividends wait for 18 months or two years, and then receive their dividends themselves. That happens frequently. A person may have a very large amount to receive, and being on the Continent, he lets it remain rather than intrust anybody to receive it for him.

708. Very often the dividends are very small?—Yes.

709. So that the power of attorney makes a considerable

diminution in the amount?—Yes; under the Stamp Act, upon powers of attorney for interest of stock under 100l., there is no stamp duty, that is, if the interest does not exceed 3l. per annum.

710. With respect to investing money in the Court of Chancery, the Accountant-general never invests any money without an order of the Court?—No; except money paid in under the Legacy Act of 36 Geo. 3, c. 52, and 37 Geo. 3, c. 135.

711. He requires a special order to invest money in every case?—Yes.

712. That is the case also, even when it is desired to invest dividends at compound interest; the party must apply to the Court for an order to the Accountant-general each time to have it done?—Unless the order directs the Accountant-general to invest the interest from time to time; he then only wants the order and the instructions from the solicitor to make the investment.

713. Do you see any difficulty in the Accountant-general investing all such sums at once without any order at all?—It might occasion a great loss to the suitors, because it would be known at the Stock Exchange when the broker was coming to invest. Perhaps he might have several hundred thousand pounds to invest at one time, if he invested the whole of the dividends as soon as received.

714. The question does not refer to the dividends, but to sums of money paid into Court. Supposing a party is ordered to pay 1,000l. into Court, would there be any difficulty in the Accountant-general investing that money without an order from the Court?—I apprehend there would, because the Accountant-general would not know what the parties intended doing with it.

715. As far as the Accountant-general is concerned, would there be any difficulty in his investing at once all the money he receives?—No, except the difficulty of determining who is to be at any loss occasioned by the difference of the price if he had afterwards to pay the money to the parties.

716. The question refers to the sums of money paid into Court under the order of the Court. What is the amount now standing to the credit of the Accountant-general in the books of the Bank?—I think about 48 millions of stock.

717. What amount of money?—About 212,000l.

718. What is the average balance that he has at the Bank of England?—It varies very much indeed. Some time ago there was a very large balance of 500,000l. or 600,000l., and we thought we could safely invest 300,000l., and in two years afterwards the account was overdrawn.

719. Can you state what is the average balance of the Accountant-general at the Bank?—We endeavour to keep an average balance of 300,000l. at the Bank; the Lord Chancellor has now, under the 1 & 2 Vict. c. 54, the power at any time to invest any part of the suitors' general cash; and before the Lord Chancellor invested any part of the suitors' general cash his Lordship would require to be furnished not only with the average weekly balances, but the minimum balance.

720. When a portion of the balance is invested, the dividend belongs to the Suitors' Fund for the general administration of the Court of Chancery?—Yes, for the benefit of the suitors.

721. For the maintenance of the institution which has the administration of law and equity?—Yes, to the extent of the charges on the Suitors' Fund.

722. Would there be any difficulty in such an arrangement as this, that the Accountant-general should keep a balance of 100,000l., and that all the other sums excepting that should be invested regularly in the Bank of England, and that the suitors themselves should be entitled to the dividends arising from the money which they themselves had paid in, so that instead of the suitors paying sums of money into Court which lie unproductive for many years, by which the parties lose the interest of their money, the money should be regularly invested, and they would gain the interest of their money during the time. Do you think there would be any difficulty in the Accountant-general doing it?—It depends so much upon circumstances; money is frequently paid in with intention of obtaining a reference to the Master to divide it among legatees, or among creditors, and then they would have to sell, and get the stock converted into cash before the Master could make his report of the amount payable to each party.

723. Could not you ascertain the average balance below which the Accountant-general's account never sinks?—In 1792, when the general cash in the Bank belonging to the suitors was 651,698l. 6s. 2d., the sum of 300,000l. was thereout invested on the Suitors' Fund account. In 1797

the cash in the Bank was overdrawn 25,666*l.* 8*s.* 3*d.*, which the Bank advanced, and in the balance of the following year the amount overdrawn was made up. I was just before alluding to an individual account, say *Smith v. Smith*, where there might be 10,000*l.* paid in, and the Accountant-general immediately invested it; but the direction of the Court might be that when it was paid in there was to be a reference to the Master to divide it among creditors.

724. You are aware what took place in the case of the compensation of the 20,000,000*l.* given by Parliament for the emancipation of the negroes?—It was paid into the Accountant-general's name, but kept separate and distinct from the suitors' cash, and was never entered in the books kept in the account department of the Report-office; and I think it worked much better without that office having anything to do with it.

725. You are aware that in that case those sums were invested without any particular directions?—Yes, and the dividend also.

726. Did any difficulty arise in the administration of the funds from the circumstance of all those sums being invested at once?—I think not.

727. There was a great increase of dividend arising from that?—Yes.

728. Can you furnish the Committee with a statement of what the average weekly balance of the Accountant-general at the Bank of England has been for a series of years past?—I can as far back as I have kept the balance.

729. Do you know what takes place in Ireland, whether the Accountant-general in Ireland does not invest the money always?—I do not know.

730. What is the use of the entering department in the Accountant-general's office?—It is not in the Accountant-general's office, it is a department of the Report-office; it was meant as a check on the Masters, at the time the Masters were deficient, previous to the appointment of an Accountant-general.

731. Has there been any considerable amount paid into the Accountant-general's office under an Act passed late in the last session, allowing trustees and executors to get rid of a trust by paying money into Court?—No, I think there have been 18 or 20 cases, not more; parties seem to be holding back till the Lord Chancellor makes some orders or rules for carrying out that Act.

732. You are paid by salary?—Yes.

733. What is your salary?—800*l.* a year.

734. You do not receive any fees of any sort?—None whatever; but for some extra-official duties upon railway undertakings, several sums have been presented to me, the whole of which have not exceeded 40*l.* during the last four or five years.

735. In fact you receive less than the first clerk?—Yes, though my duties are heavier.

736. Because he receives a salary of 500*l.* a year, and in addition to that he receives in the shape of gratuities sums exceeding 300*l.* a year?—Yes; when I took the office I was senior second, and all the first clerks refused to take it.

737. In fact the first clerk's was a more lucrative office?—Yes.

738. Is there any means of testing the accuracy of the return, with respect to the fees paid for powers of attorney, gratuities, and transcripts?—None whatever.

739. The fees upon powers of attorney seem to be divided between the two first clerks?—Between the first and second; I would beg permission to give a little explanation with reference to a question put to Mr. Mortimer, about a sum going to a wrong account, where there are two causes of the same name, such as *Smith v. Smith*. It may arise in this way; if we have got in our ledgers a cause, say *Smith v. Smith*, and a solicitor's clerk brings up an order to pay in money to a cause of *Smith v. Smith*, he is asked, "Is this 'money to go to the same cause?'" If he says, "It is a 'new suit,'" we direct him to go to the registrar to alter the order; for instance, thus, *Smith v. Smith*, "in Master 'Farrer's office,'" so as in some way to distinguish the two causes. But if the solicitor's clerk, through ignorance or carelessness, says, "It is the same cause," then we put it to the same cause. That has arisen several times.

740. *Mr. Walpole.* You mentioned that the fees upon powers of attorney had been raised?—Upon special powers.

741. Under what authority was that?—The clerk who made them out.

742. There is no reason why the clerk should not make them still more?—I think parties would then complain; but those special powers are generally for officers of the Court, and not for the public.

743. But the clerk would have the power of raising it?—He would.

744. There is no check whatever in the office by which you can ascertain whether the fees on the powers of attorney

are exactly what the first clerk returns?—No, because the fees are kept by themselves.

745. Nor as to transcripts or gratuities?—None whatever.

746. *Mr. Turner.* In lunacy the practice has been adopted of laying a certain charge upon the income administered for the purpose of paying the expenses?—That is for defraying the salaries and expenses of the Commissioners, for periodically visiting each lunatic throughout the country, under the provisions of Lord Ashley's Act, and that fund is entitled "The Lunatic Visitor's Fund."

747. Could any such plan be practically adopted in the offices of the Court of Chancery?—It might be for subsequent money coming into Court; it would not do for the 40,000,000*l.* now standing in our books, as the suitors to whom that amount belongs have already paid the fees of the Court in the prosecution of their suits; and it would not do to make them pay the fees over again in the shape of poundage on the funds they have in Court.

748. Except that it might be reasonable that they should pay a certain per-centage for the benefits which they have derived, as well as for the benefits which they will derive?—Yes; I have made a rough sketch to show the increase of the business in the Accountant-general's office from the year 1726. It is an account of the balances on the 1st October in every year, of the securities and cash belonging to the suitors of the Court of Chancery, standing in the name of the Accountant-general at the Bank, from the commencement of the Accountant-general's office, in 1726. (*The same was delivered in.*)—*Vide Appendix.*

749. *Chairman.* Will you explain the different columns of which this account consists?—The first column contains the names of the Accountants-general; the second is the years; the third the number of accounts; the fourth the amount of securities belonging to the suitors in the different causes.

750. Does that include stock?—Yes.

751. But not such things as foreign securities put into boxes?—No; but I can, if requisite, make a return of that.

752. Would Exchequer bills be included?—Yes.

753. Does this cash in column No. 5 stand in the books of the Bank?—Yes, in the name of the Accountant-general; it is divided amongst the 760 accounts. Then the next column, No. 6, is, "Cash in the Bank." Appended thereto is a statement of the deficiency of the Masters; the amount of this deficiency, added to the sum which appears here in column No. 6 (up to the year 1749, when the deficiency was made good), would make up the exact sum belonging to the suitors. It was found that the fees which on the first establishment of the Accountant-general's office were authorized to be paid to the Accountant-general were a great burden to the suitors. By an Act of 12 Geo. 3, c. 24., a sum not exceeding 35,000*l.*, part of the suitors' general cash, was authorized to be laid out in the purchase of securities; and by an Order of 2d July 1739 (*Sanders' Orders*, p. 549), made in pursuance of the said Act, 34,939*l.* 1*s.* 6*d.* was accordingly laid out in the purchase of Exchequer tallies, and out of the interest salaries were paid to the Accountant-general and his two clerks in lieu of all fees.

754. This column, No. 6, shows the amount of cash balance standing in the name of the Accountant-general in the books of the Bank uninvested?—Yes.

755. This column, No. 6, also shows the balance of cash every year?—Yes.

756. At what time?—On the 1st of October.

757. And this would give a fair idea of the average balance of cash?—Yes. There is another thing in this account which I may explain. In 1844 and 1845 it was found necessary to sell sufficient stock to raise 300,000*l.*, that the cash might be paid to the suitors, and there was a loss upon that sale of 938*l.* 11*s.* 4*d.*

758. But that loss was of course much less than the amount of the dividends received?—Yes.

759. So that there would be a balance of profit upon the whole?—Yes.

760. *Mr. Turner.* Has it occurred to you to consider whether any possible means could be adopted for saving the expense of those powers of attorney with equal security to the Accountant-general?—I am not aware of any plan. Even with the powers of attorney there have been losses sustained by the Accountant-general from forgeries; Mr. Harvey, one of the Accountants-general, had 11 powers forged at one time.

761. *Chairman.* Does the loss of that fall upon the Accountant-general?—It did so then; I should doubt whether it would now.

762. *Mr. Turner.* How do you get at the verification of those powers of attorney?—They are executed in the presence of two parties, one of whom must be a house-

holder; one of the parties makes the affidavit verifying the execution.

763. There is the further expense of the affidavit?—Of swearing the affidavit; the fee for preparing affidavit is included in the fee paid for the power to which it is annexed.

764. What is the expense of swearing the affidavit?—There is 2s. 6d. for the oath, and 2s. 6d. for making the power as an exhibit to the affidavit, making together 5s.

765. *Chairman.*] Is not there also the drawing of the affidavit?—No; that is included in the fee paid for the power.

766. *Mr. Turner.*] Would a private banker require the same security that the Accountant-general requires?—A private banker would pay by cheque which is payable to bearer; but ours is payable only to the party named therein.

767. If the Accountant-general gives a cheque to A. B. to receive a sum of money at the Bank, and A. B. endorses it, and pays it into his bankers, the bankers can receive it?—Yes. In the case of a draft payable under a power of attorney, the Accountant-general's clerk endorses the attorney's name upon the back, and puts his initials to it, and upon such endorsement and initials the Bank pay the cheque to the party.

768. There would be no difficulty in putting the clerks in the Accountant-general's office upon salaries?—I think not.

769. Supposing it to be still necessary to keep up a certain amount of fees which are received by those clerks, it would be possible to consolidate those fees?—I think so; but I apprehend that a great many of those fees need not be taken at all; there are fees taken for a great number of office-copies, which are never made. For every principal draft there is a certificate signed by the Accountant-general; the solicitor pays 2s. 4d. for an office-copy of that certificate, which is scarcely ever made. Some years ago, when there were stamp-duties upon all the law proceedings, the clerk of the reports used to pay for the stamps for the office copies, and spoil them; there were as many spoiled stamps in that way as would nearly load a waggon.

770. You state that upon a draft being drawn by the Accountant-general there is a certificate issued?—There is a certificate, as required by the Act 12 Geo. 1, c. 32, signed by the Accountant-general, and delivered to the party with every cheque for principal money. This certificate the party takes with the cheque to the clerks of accounts, who enter and return him the cheque; but the certificate, after being endorsed, is sent to the clerk of reports to be filed by him.

771. For what purpose is that?—It is of no use whatever now; it originated when the Masters were deficient. The Masters did not keep any ledgers as the Accountant-general does now, nor did they pay by cheque on the Bank as is now done. When therefore an order was brought to a Master, ordering him to pay to a party a sum that had been deposited with him, he sent to the Report-office to know whether the amount mentioned in the order to have been deposited with him agreed with the entry in his book, which was then kept by the clerk in the Report-office; and on finding it correct the Master handed over the amount to the party, and thereupon made a certificate thereof, which was filed in the Report-office in the same way that a Master does at the present time when he delivers out books that have been deposited with him. After the discovery of the defalcation of the Masters, the Masters' books in the Report-office, by an order of 26 May 1745 (*Sanders' Orders*, page 500), were directed to be kept causewise, and the same books continue to be kept by the clerk of accounts in the same way. In the Act 12 Geo. 1, c. 32, authorizing the appointment of an Accountant-general, was incorporated another order of 4 November 1725, in which the mode of transferring all stock and securities, and paying all monies, into and out of Court, were specifically pointed out; and under the provisions of this Act, if the Accountant-general draws a draft for a payment to any individual of principal money, he would draw a certificate, as well as the draft, and the party would have to take the draft and the certificate to the clerks of accounts, and they would charge him 2s. 4d. for the filing and office copy of the certificate.

772. The account kept in the Report-office furnishes a check against the Accountant-general, as the two accounts ought to be the same?—Yes, except the dates.

773. The mode in which it is to be seen that they are the same, is by comparing the original document with the draft, and the Accountant-general's certificate of the draft being carried over from the Accountant-general's office to the Report-office?—Yes.

774. Then when the certificate gets to the Report-office, an office copy is made of it?—It is never made except at the special request of the parties, and is scarcely ever required by the parties, though they are charged for it.

775. *Mr. Walpole.*] What is supposed to be the good of that office-copy?—Scarcely anything; and the clerks of

accounts still charge 2s. 4d. for the filing and office-copy of that certificate, though the fees upon all other office-copies have been reduced one-half; the Accountant-general's clerk, for an office-copy of a certificate of a cheque for the purchase of stock, charges only 1s. 6d.

776. *Mr. Turner.*] Do you mean that the office-copies are taken both in the Accountant-general's office and in the Report-office?—The fees for the filing and making the office-copy of the Accountant-general's certificate on drafts for principal money are taken by the clerks of accounts, but certificates or drafts for principal money to be invested, and on other certificates, by the third clerk in each division of the Accountant-general's office.

777. One shilling and sixpence is charged?—For the certificate or the draft the Accountant-general does not charge anything; the charge is made at the Accountant-general's office to defray the expenses of filing the certificate and making the office-copy thereof, which is done at the Report-office.

778. I understand you to say, that if the fee for the office-copy of the certificate of the cheque is taken at the Accountant-general's office, the parties pay 1s. 6d.?—Yes.

779. And they will have to pay for another office-copy at the Report-office?—No.

780. Are there any other fees which stand upon the same footing as those office-copies of the Accountant-general's drafts?—No; but I might mention that there are a great number of certificates that persons never take office-copies of, because they are of no use; for instance, the investment of dividends, and a variety of things; the parties are obliged to pay for office-copies, and office-copies are made in the Report-office and brought back to the Accountant-general's office, and there they lie and are never taken away.

781. Can you give an instance of what you consider useless copies, which are taken and which are left in the Accountant-general's office?—The office-copies of the certificates of drafts for principal money invested and most of those for the investments of purchase money, and interest, are never required by the parties. Two-thirds, at least, of all the office-copies are not taken away.

782. Have you any conception of the origin of that?—The present mode of transacting all our business originated very soon after the defalcation of the Masters.

783. I think you said that you could give us a list of the documents, office-copies of which are entirely useless?—I have mentioned an instance where they are entirely useless; but fees are taken and office-copies made in a vast number of instances where the office-copies are left at the Accountant-general's office, and never taken away.

784. *Mr. Wood.*] Perhaps you can hand in a list of those cases in which office-copies are frequently left at the Accountant-general's office, though they are charged for?—Yes; I will do so.

785. *Mr. Turner.*] Those fees or gratuities for expedition are not of modern origin?—No, they will be found mentioned in the Report of 1816; there were certain fees when the Accountant-general's office was first established, taken by the clerks; the whole of those fees were handed over to the Accountant-general, and he paid his clerks a certain salary out of them; those fees are now entirely abolished: a fee used to be paid to the Accountant-general for making copies of accounts, which is now kept by the clerks.

786. Those would not be fees for expedition?—No.

787. Have you any notion of the time at which those fees for expedition originated?—No, I have not. I might mention that in order to make up the deficiency in the Master's accounts, which I have mentioned in the statement I have drawn up, there was a stamp duty of 6d. imposed on certain writs. In order to collect this duty an arrangement was made with the Stamp-office, who issued and sold the stamps, and the Stamp-office kept an account at the Bank of England, in the name of the suitors of the Court of Chancery, and the amounts received for those duties were paid in every Wednesday to the Bank. It strikes me, that if stamps were substituted for the present fees, this plan would be found the best that could be adopted, and would, I expect, be found more economical and satisfactory than the present mode of collecting the fees.

788. *Chairman.*] The papers which you have handed in are the Suitors' Fund Account and the Suitors' Fee Fund Account?—Yes.

[*The witness delivered in the same, vide p. 130.*]

789. Would there be any inconvenience in your office being kept open beyond the present hours?—I think there would; we should not be able to keep the accounts so closely made up as at present; the Bank send up every night the amount of the money paid in and paid out, and the Accountant-general's clerks have to stop to get that entered in the journal, so that it may be posted in the ledger, and a certificate given to the Court on the following day if required.

790. When do they enter the accounts?—In the evening, after the papers have come from the Bank; and the sums so received and paid are obliged to be posted by two o'clock on the following day and called over with the ledger.

791. The clerks are employed to do that after the office is closed?—Yes, sometimes the Bank papers do not reach us till six o'clock at night; the Bank send a mail as they call it, of everything they have paid during the day, and everything that has come in. The question was asked whether there was any check upon the fees. Some years ago Parliament called for a return of monies received by the Masters' clerks, and they brought the order over to me, as we received from them the amount of their fees. I told them that I could not make the return to Parliament, that they must make it themselves, but if they would make out an account of the monies received I would check it. When the draft of the return to Parliament was drawn and brought over to me to be checked, I found that in one office where the clerk was dead the amount of fees returned was a larger sum than we had received in our office; I immediately told them of it, and it turned out that in swearing the affidavit there had been two leaves of the book which the clerk had omitted, so that the fees received for the two pages were not paid into the Sutors' Fee Fund.

792. The clerk was dead?—Yes, and his executors had to make it good.

793. Have you considered at all the use of the Account Department of the Report-office?—Yes; for a long time past I have not seen any use in it, for this reason, the only thing that they check before the transaction is complete is the drafts; all the sales and transfers are made out of Court, and parties who have got the stock may be out of the jurisdiction of the Court before the clerks of account know anything about it. It is a great hindrance to business; and a short time since they refused to enter the cheques for the salaries because they had not cash on the account; for they never consider that they have cash till the parties chose to bring the receipts for the amount paid

in, and frequently a hostile party, when he is compelled to pay in money, will not bring the receipt; when they refused to pass the drafts for the salaries some time ago, there was in fact plenty of cash at the Bank on the Fee Fund to meet the payments.

794. The drafts are all signed by the Accountant-general?—Yes, but the salaries which are paid out of the Sutors' Fund are paid by the Bank without cheque.

795. Would there be any use in an entering clerk ascertaining the amount of balances every day?—I do not know how it could be done, because he would not know till a return was made by the Bank what amount stood to the credit of the account.

796. And that might be done in the Accountant-general's office as well as in a separate office?—Yes, and the Bank of England is very careful; there is one office at the Bank where they pay the money, and a second where they enter it; and there is a third office where they enter the total amount of cheques and the total amount of receipts, so as to balance the accounts every day.

797. The Bank always know the amount of their balance?—Yes, every day; the Bank balance agrees with ours, and the dates agree with ours, but the entries in the Report-office do not. The bank send up every Thursday an account of everything that is received, and everything that is paid; and again on Monday, so that the balances are checked twice a week with the Bank in the Accountant-general's office.

798. The monies on account of the Fee Fund are paid into your office?—Yes.

799. Who receives them?—The Bank of England. The Accountant-general draws directions to the Bank of England to receive the amount paid in by each person, and place the same to the credit of the Sutors' Fee Fund.

800. By whom is the money paid in?—By the different clerks whose duty it is to receive and account for the fees.

801. The number who pay in is about 40?—Yes; but I cannot tell the number who actually receive fees.

PAYMENTS out of the SUTORS' FUND after deducting Income Tax, the Amount of Stock standing, and Dividends, &c. received and paid into the said Accounts, from October 1846 to October 1847.

	CASH.	CASH.		CASH.	STOCK.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Lord Chancellor's salary - - - - -	- - - - -	9,744 15 10	Balance on the accounts in		
Vice-Chancellor Bruce - - - - -	- - - - -	4,872 7 11	October 1846 - - - - -	20,827 16 4	3,440,173 2 4
Vice-Chancellor Wigram - - - - -	- - - - -	4,872 7 11			
Ten Masters' salaries, at 2,500 <i>l.</i> each, including a proportionate part of one Master's salary, retired	25,709 7 8		Dividends received during the		
Accountant-General, as Master, as Master	582 10 0		year - - - - -	101,091 5 11	
Proportion of pension to a retired Master, of 1,200 <i>l.</i>	404 10 1				
Total Masters - - - - -	- - - - -	26,689 10 4	Received by the Accountant-General under 5 Victoria -	150 0 0	
Accountant-General's salary - - - - -	875 15 0				
Expenses of office, &c. - - - - -	437 17 8		Stock purchased with surplus		
Twenty-six Clerks' salaries - - - - -	6,733 11 3		interest - - - - -	- - -	33,519 11 0
Proportion of pension to a retired Clerk, of 450 <i>l.</i>	80 8 3				
Total Accountant-General's office - - - - -	- - - - -	8,127 12 2	Received of James Lacey, by		
Part of two Examiners' salaries, remainder out of Fee			order of Court - - - - -	27 3 11	
Fund - - - - -	584 17 0				
Retired Examiner's pension - - - - -	194 19 0				
Retired Examiner's Clerk's pension - - - - -	97 9 6				
Total Examiners - - - - -	- - - - -	877 5 6			
Four Clerks in office of Clerk of Accounts	- - - - -	365 7 7			
Clerk of Affidavits, increased salary - - - - -	- - - - -	291 5 6			
Officers of the Lord Chancellor's Court:—					
Usher - - - - -	292 8 6				
Court-keeper - - - - -	87 14 8				
Persons to keep order - - - - -	138 14 1				
Tipstaff - - - - -	123 16 0				
Serjeant-at-arms - - - - -	555 8 9				
Officers of the Vice-Chancellor of England:—					
Secretary - - - - -	487 3 8				
Usher - - - - -	194 17 6				
Trainbearer - - - - -	97 8 9				
Officers of the Vice-Chancellor Bruce:—					
Secretary (two years' salary) - - - - -	592 6 11				
Usher - - - - -	184 17 11				
Trainbearer - - - - -	97 9 0				
Court-keepers - - - - -	77 19 2				
Officers of Vice-Chancellor Wigram:—					
Secretary - - - - -	292 6 11				
Usher - - - - -	194 17 17				
Trainbearer - - - - -	97 9 0				
Court-keepers - - - - -	77 19 2				
Total Officers of the Courts - - - - -	- - - - -	3,602 17 11			
Surveyor - - - - -	- - - - -	116 10 0			
Compensation to the late Officers of the Exchequer	- - - - -	5,876 8 11			
Solicitors to Sutors, in lieu of costs - - - - -	600 0 0				
Disbursements - - - - -	45 18 5				
Expenses of Courts and Offices, for coals, candles, &c. &c. - - - - -	- - - - -	645 18 5			
Carried over to Sutors' Fee Fund by order of Court - - - - -	- - - - -	4,292 7 4	Payments made, as other side - £70,360 10 7		
		15 15 3	Surplus interest invested - 30,000 0 0		
Total payments - - - - -	- - - - -	70,360 10 7		100,360 10 7	
Surplus interest invested - - - - -	- - - - -	30,000 0 0			
		£ 100,360 10 7	Balance, 1st Oct. 1847 - £	21,735 15 7	3,479,692 13 4

SUITORS' FEE FUND ACCOUNT from 25th November 1846 to 25th November 1847.

	£	s.	d.	£	s.	d.		£	s.	d.	
Compensation to five Masters, at 725 <i>l.</i> per annum -	3,625	0	0				Fees received in the Masters' Offices - - - -	36,265	16	3	
Eleven Masters' Chief Clerks' salaries, at 1,000 <i>l.</i> each, less a proportionate part accrued between the death of one and appointment of another - - - -	10,853	18	8				Fees received in the Registrars' Office - - - -	18,044	2	0	
Eleven Masters' Junior Clerks, at 150 <i>l.</i> each - - - -	1,650	0	0	16,128	18	8	Fees received in the Report Office - - - -	5,318	11	1	
Total Masters - - - -							Fees received in the Affidavit Office - - - -	4,766	13	8	
Salaries to ten Registrars - - - -	15,900	0	0				Fees received in the Examiners' Office - - - -	1,615	7	3	
Compensation to ditto, under 3 & 4 Will. 4. c. 94. s. 48. and 5 Vict. c. 5. s. 53 - - - -	4,000	0	0				Fees received by Gentlemen of the Chamber:—				
Salaries to fourteen Registrar's Clerks, less a proportionate part accrued since the death of one - - - -	6,601	1	8	26,774	1	8	Fees received for Fines and Recoveries - - - -	377	18	6	
Pension to a retired Registrar's Agent, under 3 & 4 Will. 4. c. 94. s. 48. - - - -	273	0	0				Fees received at the Subpoena Office - - - -	134	8	0	
Total Registrars - - - -							Fees formerly payable to the Lord Chancellor - - - -	1,900	13	2	
Master of Reports and Entries' salary - - - -	1,000	0	0				Fees received by Secretary of Lunatics - - - -	3,288	16	8	
Two Clerks of Entries - - - -	250	0	0				Fees received by Clerk to the Masters in Lunacy - - - -	3,510	0	5	
Compensation to one Clerk of Entries - - - -	100	0	0				Fees received by Taxing Masters - - - -	29,143	15	11	
Salaries to Clerks of Accounts - - - -	2,550	0	0	6,150	0	0	Fees received by Clerk of Enrolments - - - -	7,109	2	4	
Compensation to late Master of Reports and Entries - - - -	2,250	0	0				Fees received by Record and Writ Clerks - - - -	23,163	3	10	
Total Report Office - - - -							Fees received by Secretary to the Lord Chancellor - - - -	2,655	8	6	
Part of Examiners' salaries to two Examiners, at 700 <i>l.</i> per annum - - - -	1,400	0	0								
Compensation to one Examiner, under 3 & 4 Will. 4. c. 94. - - - -	200	0	0	2,100	0	0					
Salaries to Examiners' two Clerks, at 150 <i>l.</i> per annum - - - -	300	0	0								
Compensation to one Examiners' Clerk - - - -	200	0	0	487	10	0					
Total Examiners - - - -											
Two Clerks of Affidavits' salaries - - - -	-	-	-								
Salaries, &c. under 5 & 6 of Her present Majesty, c. 34.:-											
Two Masters in Lunacy - - - -	4,000	0	0								
Travelling expenses - - - -	538	4	0								
Seven Clerks to Masters in Lunacy - - - -	2,020	0	0								
Rent of premises - - - -	330	0	0								
Expenses of offices - - - -	730	4	7								
Salary of Secretary of Lunatics - - - -	800	0	0								
Four Clerks in Secretary's office - - - -	710	0	0								
Expenses of offices - - - -	449	2	11								
Compensation to late Commissioners in Lunacy - - - -	480	0	0								
Ditto to the late Clerks of Custodies - - - -	236	0	0	10,293	11	6					
Salaries, &c., under 5 & 6 of Her present Majesty, c. 103.:-											
Six Taxing Masters - - - -	12,000	0	0								
Six Clerks to ditto - - - -	1,500	0	0								
Clerks of Enrolments - - - -	1,200	0	0								
Three Clerks to ditto - - - -	750	0	0								
Four Clerks of Records - - - -	4,800	0	0								
Twelve Clerks to ditto - - - -	3,000	0	0								
Copy money for writing and copying in the office of the Taxing Master, Clerk of Enrolments, and Clerks of Records - - - -	7,638	12	2								
Rent of Taxing Masters' offices - - - -	800	0	0								
Expenses of Taxing Masters, Enrolment, and Record and Writ Clerks, for stationery, coals, candles, servants' wages, insurance, rates and taxes, and for furniture, builders and surveyor for alterations - - - -	1,483	5	6	33,171	17	8					
Compensation for loss of offices and profits to the undermentioned officers, under 5 & 6 of Her present Majesty, c. 103.:-											
Three Six Clerks - - - -	4,733	15	0								
Twenty-two Sworn Clerks - - - -	29,614	7	0								
One Waiting Clerk - - - -	109	8	8								
Five Agents to Sworn Clerks - - - -	1,431	1	0								
Two Clerks of Enrolments - - - -	822	10	0								
Two Deputy Clerks of Enrolments, Deputy Record Keeper, and Agent to Sworn Clerk - - - -	2,235	8	4								
Bag Bearer - - - -	42	16	0								
Chaff Wax - - - -	19	16	8								
Sealer - - - -	17	14	0								
Clerk in the Public Office - - - -	300	0	0								
Ten Masters' Junior Clerks (under the above two Acts) - - - -	1,610	13	6								
Messenger - - - -	12	12	0	41,000	2	2					
Excess of Fees above Charges for the year ending 24th November 1847 - - - -				1,187	15	11					
				£	137,293	17	7				
								£	137,293	17	7

The above Account contains the amount of Fees received by the various Officers during the Year, and sworn to by the Affidavits, together with the Amount due to such Officers during the same period: but as several of the Fees and Salaries due 25th November 1847, were respectively not paid in and paid out till after that date, and also as some were paid in and paid out after the 25th November 1846, which were due at that date, the above Account does not exactly agree with the Accountant-General's Books, which are as follows:—

	CASH.			STOCK.				CASH.			STOCK.				
	£	s.	d.	£	s.	d.		£	s.	d.	£	s.	d.		
Paid Salaries - - - - -	134,316	6	6				Balance of Cash on the Account, 24th November 1846 - - - - -	24,430	11	1					
Balance of Cash on the Account, 24th November 1847 - - - - -	18,266	5	8				Balance of Stock - - - - -	6,022	11	-	137,856	2	9		
Balance of Stock - - - - -	-	-	-	154,597	11	4	Balance of Interest Money - - - - -	-	-	-	-	-	-		
Balance of Interest Money - - - - -	2,251	6	6				Dividends received - - - - -	4,268	17	1	-	-	-		
Surplus Fees invested - - - - -	6,953	9	3				Stock purchased with Dividends - - - - -	-	-	-	8,972	4	0		
Interest Money invested - - - - -	8,030	2	4				Surplus Fees - - - - -	-	-	-	7,769	4	7		
							Fees "paid into" Court during the period from 25th November 1846 to 24th November 1847 - - - - -	135,105	10	4					
	£	169,817	10	3	154,597	11	4		£	169,817	10	3	154,597	11	4

7th February 1848.

1351. *Chairman.*] Do you know what was the origin of those deposits?—I believe that previous to the establishment of the Sutors' Fee Fund in 1833, the taking of the deposits was universal in the Report-office, in order that the fees for the office copies might be secured whether the office copy was taken away or not; the solicitor upon application might have received back the overplus, if any, but with reference to the deposit taken at the Accountant-general's office, for some years it has been found most convenient to regard the deposit as the fixed fee, for the purpose of expediting the taxation of costs.

1352. Have you ever known the payment of those fees objected to?—No; when I first came to the office some of the solicitors used to claim to have the surplus of the deposits returned to them; it was some of the old houses who did that, and we used to pay them back at that time, if required.

1353. How long ago was that?—Twenty-five or thirty years ago. Mr. Lowe insisted upon the return of the difference, if any.

1354. Upon that claim being made they were returned?—Yes.

1355. *Mr. Hume.*] Was any return made to the head of the Court of Chancery of those fees having been required to be returned at that time?—No. It was found more convenient for the Masters, on the taxation of costs, to have a fee fixed for the office copies of certificates of the Accountant-general filed with the clerks at the Report-office, and at the Masters' request a list of the amount of such deposits was sent to the Masters' office, which were always allowed in the taxation of costs, and from that time the overplus was not returned to the parties, the whole amount of the deposit having been allowed in the costs. If the office copy exceeds the amount received for the deposit (which is sometimes the case), the Accountant-general's clerk bears the loss. Since the reduction of the fees for office copies a fresh list has been made out and sent to the Taxing Masters, and it is always acted upon by them in the taxation of costs, so that when a purchase is to be made by the Accountant-general, the Taxing Master knows that a certain sum will be paid thereon. The taxing of these deposits made a great increase to the fees of the Master of the Report-office previous to 1833, and to the Fee Fund since that period.

1356. We wish to know what is the amount of losses of the Accountant-general in consequence of any forgeries that have taken place?—The first in my time was in the cause of *De Tellen v. Gale*. Mr. Harvey was then Accountant-general, and a man of the name of John Womersley, I believe, forged 11 powers, and the following sums were paid by us:—On the 21st May 1828, 6*l.* 6*s.*; on the 21st June 1828, 42*l.* 10*s.*; the 16th of July of the same year, 23*l.* 12*s.* 11*d.*, 14*l.* 12*s.* 8*d.*, 35*l.* 16*s.*, and 16*l.* 11*s.* 9*d.*; on the 15th of August, 103*l.* 5*s.* 1*d.*; on the 28th of August, 10*l.* 5*s.* 7*d.* The total amount was 253*l.*

1357. Have there been any forgeries since that time?—None since.

1358. The Accountant-general was obliged to bear that loss personally?—Yes.

1359. During the time of Mr. Adam was there any forgery?—There was a loss, not a forgery; a cheque for 697*l.*, in the cause of *Eyre v. Turton*, payable to John Lee, was stolen out of the office of the Accountant-general by John George Wood, a clerk in the office.

1360. Did that loss fall personally upon Mr. Adam?—Partly. There was a great deal of discussion about it; I believe the solicitor's clerk bespoke the cheque for a person who was dead, which he had no business to do; so that there was a wrong direction given by the solicitor; there was also a robbery upon the Accountant-general, and a forgery upon the Bank; and I believe the amount was paid between the three.

1361. Had the clerk who stole the cheque given any security or surety at the office?—No, there is no security given.

1362. *Chairman.*] Is it possible to steal a cheque now?—There has been a great deal more caution since; Mr. Adam gave orders that there should be no arrears of cheques kept, but that when three dividends due to a party remained unreceived the cheques for the same should be destroyed, and that no cheque should go into a junior clerk's possession after it had been signed by him.

1363. Have there been any losses sustained by the Accountant-general of a similar nature since those events?—Not that I am aware of. In consequence of the forgeries during the time Mr. Harvey was Accountant-general, he gave directions to his clerks not to allow a power of attorney to be made out, authorizing any clerks to receive cheques, nor to take in any request bespeaking a power of attorney signed by any clerk to a solicitor, and this regulation is still strictly adhered to. It is now signed by the solicitor, and

the Accountant-general puts his initials on the request before the power of attorney is allowed to be made out.

1364. Is it possible now to forge a power of attorney, or any document which could cause a loss to the office?—It is impossible to say what might be done.

1365. Do you recollect the case of a man of the name of Rugg?—Yes.

1366. What was that case?—I am not sufficiently acquainted with the particulars of it to give the requisite information. I was not at the trial, and I did not give much attention to it.

1367. That was the case of money obtained out of Court?—Yes; that was not a robbery upon the Accountant-general, but a fraud upon the Court.

1368. He was prosecuted to a conviction?—Yes.

1369. That was obtaining an order from the Court upon false pretences?—Yes.

1370. As far as the proceedings went through the Accountant-general's office it was quite regular?—Yes.

1371. If any losses were now sustained or money were got out of Court improperly, by reason of forgery upon the Accountant-general, would the loss fall upon the Accountant-general?—I cannot say; it would require a much wiser head than mine to be able to state. The remark I made before was made in consequence of what was said in the House of Commons at the time of inserting the 61st clause in the Act of the 5 Vict. c. 5, whereby the Accountant-general was to pay 150*l.* yearly into the Sutors' Fund. I think one of the Members then stated that he did not think the Accountant-general was subject to any loss; and as that was said by a very eminent lawyer, I said I should doubt whether the Accountant-general would sustain the loss now.

1372. That was by Sir Edward Sugden?—Yes.

1373. How did that payment of 150*l.* originate?—On the passing of the Act 5 Vict. c. 5, which brought over the Equity Exchequer business to the Court of Chancery, by the 61st section of that Act the Accountant-general is to pay over 150*l.* every year to the Sutors' Fund, being the average amount of the brokerage received by the Accountant-general of the Court of Exchequer.

1374. *Mr. Hume.*] In what year was that?—In 1841.

1375. *Chairman.*] Can you state what the amount of the unclaimed dividends is?—It is almost impossible to state. In 1829 there was a return required by Parliament of the amount of stock that was standing in the name of the Accountant-general, upon which he had not paid the dividends; there was a great deal of pains taken in preparing that return, and for that purpose we went back through every account for 20 years. The amount of stock that was standing in the name of the Accountant-general of which no dividend had been appropriated for 20 years, was 127,904*l.* 5*s.* 11*d.*; for 15 years, 28,288*l.* 16*s.* 11*d.*; for 10 years, 70,498*l.* 0*s.* 6*d.*; and for five years, 201,558*l.* 1*s.* 3*d.* I do not at all know how much of the dividends on the stock brought over from the Exchequer was unappropriated. Perhaps I might be allowed to mention, with a view to show how very closely the Accountant-general of the Equity Exchequer invested the cash, that although the cash belonging to the suitors of the Court of Exchequer was 261,325*l.* 3*s.* 5*d.*, including a dividend received on the 10th October 1841 of 10,158*l.* 16*s.*, 252,676*l.* 10*s.* 4*d.* was invested in the purchase of stock, pursuant to the Acts 1 Geo. 4, c. 35, and 1 & 2 Vict. c. 54, and the balance, amounting only to 8,748*l.* 13*s.* 1*d.*, was brought over to the Accountant-general of the Court of Chancery, and at the same time there was handed over to his chief clerk 944 interest drafts unpaid, and 110 principal drafts unpaid, amounting to 18,182*l.* 2*s.* 5*d.*, so that we were obliged to come upon the Chancery suitors' cash to make up the difference, in order to pay these drafts.

1376. *Mr. Hume.*] Has any account similar to that to which you have referred been made since 1829?—No, none whatever.

1377. Do you keep a list of all the funds in hand, and have you any column to show what proportion is unclaimed?—No, we keep an account of both the stock and cash in each cause, and also a general account of the cash at the Bank.

1378. Do you bring into one sum all those which are regularly paid, and those which are unclaimed?—No, the amount of cash in the Bank at any time is known, but we cannot tell how much of that consists of unclaimed dividends.

1379. Are there any orders by the Accountant-general that those amounts should be kept separate, in order that he may refer to them from time to time?—No; but we can go back to each individual account, if necessary.

1380. But are you able to tell at any time what are the amounts of the unclaimed sums in your hand?—No; we cannot ascertain that except by going through all the accounts, which would be attended with great labour.

1381. There are no accounts kept with a view to show that at once upon inspection?—No.

1382. *Chairman.*] In fact, you have large sums which have not been dealt with for a great many years, even 40 years?—Yes.

1383. *Mr. Hume.*] What security is there that all those sums that are unclaimed have been brought over to your account; what check is there?—Every year we make out a balance book containing every individual account, with the amount of cash and stock standing to each individual account, and the Chancery officials of the Bank of England do the same, and they are compared with each other.

1384. But the Bank of England will not tell you any sum of money that they may have, if any be omitted?—In the Stock offices the stock stands in the Accountant-general's name in one gross sum, but in the Inner Chancery office the amounts belonging to each cause or account are kept separate; in this office they agree their totals of stock standing on each cause and matter with the totals of the various stocks standing in the Accountant-general's name in the several stock ledgers once a week, in order that no sums transferred by the parties may be omitted being placed to their respective accounts in the Chancery books of the Bank; twice a week this office send their totals of stock and cash received and paid and posted in their books to the Accountant-general's office, for the purpose of being compared and agreed with his books. We have at the annual balance not only to compare the sums standing to each of the causes, but we have also to compare the number of causes and agree the total balances.

1385. *Chairman.*] You think that some improvement might be made, if there was an establishment of a branch Bank of England nearer to the Accountant-general's office?—It would be a very great benefit to the suitors, as they might then have their cheques cashed on the spot without having, as at present, to go into the City, which would be a great boon to the poorer class particularly; and in addition thereto, I think we might then be able to keep our office open until three o'clock, instead of closing it at two, as at present. I find there is a branch bank at the office of the Accountant in Bankruptcy, where they pay all sums under a certain amount at once, though that office is much nearer to the Bank of England than the office of the Accountant-general of Chancery is.

1386. Do you think that an establishment of that description is practicable?—I apprehend that it would be equally practicable as in the office of the Accountant in Bankruptcy.

1387. Then the Bank of England has an office at the Bankruptcy Court for that purpose?—Yes, to pay the dividends.

1388. And they might have an office in the same way at the Accountant-general's?—Yes, I think they might have just such an office.

1389. You have no room at present?—No; we are very much confined.

1390. Supposing a new storey were built, you would have plenty of room?—Yes.

1391. If the office of the clerks of accounts were put an end to, would that give sufficient room for the purpose?—I should think it would.

1392. There are a great many unnecessary office copies of certificates, are there not?—Yes; I have been inquiring among the offices, and I find not above one-third are taken away of all that are made out.

1393. Of what nature are those certificates?—Upon an order being brought to the Accountant-general to act upon, he signs directions authorizing the Bank of England to carry out the various transactions under that order, and upon the Bank completing such directions they certify to the Accountant-general that they have done so, and the Accountant-general then signs a certificate certifying that he has done what by the order he was directed to do, and his certificate is annexed to the Bank certificate, and they are both filed at the Report-office, and it is the money for the office copies of these certificates which is taken at the Accountant-general's office.

1394. The fee upon those are paid into the Fee Fund?—Yes.

1395. What is the object of the certificate?—To inform the Court and the parties in the cause of what had been done. I think it originated at the time all monies brought into Court were deposited with the Masters, before the establishment of the Accountant-general's office. They used to keep the money in their own hands or at their private bankers, and their certificate filed in the Report-office of all sums received and paid by them was the only record of the same. The following is a copy of three of those certificates issued in 1700:—

"Copy of Master's Certificate for the Payment of Money into Court before the Establishment of the Accountant-general's Office.

"3 die February 1723.

"Inter Capel Billingsley and Edru Letheliar & Anna Billingsley inf^t liber p^r fat Capoll Billingsley p^r prochein Amy & alios Querentes Willum Cobb & Willu Came executors Arthur Billingsley defunct defts.

"In pursuance of an order of the 31st day of October last, I have been attended by the defendant, William Cobb, who hath this day paid into my hands the sum of nine hundred pounds, according to the said order, which I humbly certify and submit to this Honourable Court.

"ROBERT HOLFORD."

"Copy of Master's Certificate for the Payment of Interest Money out of Court before the Establishment of the Accountant-general's Office.

"20 December 1723.

"Inter Isaac Blissett & anor. Plts., Thomas Bland & ors. Defts.

"I do hereby humbly certify to this Honourable Court that I have this day paid unto the Plaintiff, Mr. Isaac Blissett, the sum of twenty pounds in full for a year's interest of eleven hundred pounds and three hundred pounds standing in the books of the Governor and Company of the Bank of England in my name, in this cause, due at Michmas, last.

"E. CONWAY."

"Copy of Master's Certificate for the Investment of Money before the Establishment of the Accountant-general's Office.

"Inter Josephus Brotherton et Janam ux. ejus; Queŕ Hannā Sells, Johem Bird, Johem Bayly et Hannā, uxof ejus, nuper Hannā Huddle, Vid, Defts.

"I HUMBLY certify to this Honourable Court that I have this day, at the request of the plaintiff Brotherton, invested the sum of five hundred and ten pounds in the purchase of two hundred pounds principal money on the Civil List Annuities, bought at the rate of one hundred and two pounds per cent., which with two shillings and six pence per cent. paid for commission thereon, amounting to the sum of five hundred and ten pounds twelve shillings and six pence, I have this day paid out of the money in my hands. This being the 18th day of June 1723.

"H. GODFREY."

1396. *Mr. Hume.*] If the party does not take the certificate, how is the sum paid?—A certificate is not issued with a draft for interest or maintenance, or an annuity; it is only with a draft for principal money.

1397. *Chairman.*] The certificate is drawn at the same time with the draft?—Yes; the Accountant-general signs the certificate at the same time that he signs the draft; the certificate is to the same effect as the draft, and they are delivered out together.

1398. In fact it is a duplicate?—Yes, very nearly so.

1399. The certificate is never used?—No, it is taken to the clerks of accounts with the draft to be entered, and is retained by them to be filed.

1400. But the fee is paid upon both?—No, it is paid upon the certificate when the draft is entered; there is no fee upon the draft.

1401. A fee is paid upon the certificate, which goes into the Fee Fund?—Yes.

1402. They do not evade the fee by not taking the certificate?—No, the clerks of accounts would refuse to enter the draft without the certificate.

1403. But the office copy of the certificate of the draft is quite useless?—Yes, and the certificate too.

1404. The fee might be paid upon the draft, without drawing the certificate at all?—Yes; there used to be an immense quantity of spoiled stamps when there were stamps upon law proceedings; the clerks to the Master of the Report-office used to get the stamps for the certificates and spoil them, as they were afraid at that time of infringing the Stamp Act; the sheets of paper were stamped, and then immediately spoiled.

1405. *Mr. Wood.*] In your former evidence I do not think you gave the general amount of floating cash which there was at present in the Bank?—There was on the 1st October last year a balance of cash of 213,246l. 13s. 6d.; this morning there was 553,261l. 2s. 2d.

1406. The Bank allow no interest upon that?—No.

1407. *Chairman.*] Upon those certificates there is a fee of 1½d. a folio paid for writing them, whether they are taken away or not?—Yes.

1408. That is paid by the Fee Fund?—Yes.

1409. And in fact 1½d. a folio for writing them would be saved if they were not written?—Yes; for the office copies of the Master's reports and orders of Court which are made

at the Report-office there is no deposit taken; it does not signify to the clerk of reports whether or not the office copies are paid for by the parties bespeaking them, as the Master of Reports and Entries either allows him to retain out of his receipts or pays him out of his own gross monthly receipts 1½d. per folio for all the copying done in the office, before the money is paid by him into the Suits' Fee Fund. The parties pay beforehand for the office copies of the Accountant-general's certificates, not one-third of which is ever taken away.

1410. What is the size of the certificate?—It is upon a sheet of pot paper.

1411. Is it a folio?—It depends entirely upon circumstances.

1412. What is the average length of it?—I should suppose three or four folios. The following is the form of an office copy of a certificate of the purchase of stock, and the office copy of the certificate of the draft drawn to pay for such stock.

(A.)

"FORM of Office Copy of CERTIFICATES of the Purchase of Stock, 27 August 1847.

"CORY v. CORY.

"I do hereby certify that, pursuant to an order dated 1st of December last, Mr. Edward Mortimer, with my privity, purchased the sum of four hundred and sixty-seven pounds twelve shillings and eleven pence Bank Three per Cent. Annuities, which hath been transferred to my account and accepted by me in trust, in the cause Hart v. Cory, as appears by the certificate of Mr. J. Newton, the proper officer of the Bank of England, dated this day, hereto annexed, and that the said annuities were purchased at eighty-eight and one-quarter per cent., at which price, including eleven shillings and eight pence paid for brokerage, the said annuities cost the sum of four hundred and thirteen pounds five shillings and nine pence, which hath been paid the said Mr. Edward Mortimer by the Bank of England, with the cash placed to the credit of the said cause, according to the directions of the said order.

"WM. RUSSELL, Accountant-general."

(B.)

"BANK of ENGLAND, 27 August 1847.

"THIS is to certify that the sum of four hundred and sixty-seven pounds twelve shillings and eleven pence, capital or joint stock of Consolidated Three per Cent. Annuities, was this day transferred to the Accountant-general of the Court of Chancery, William Russell, Esq., in trust, to attend the orders of the said Court in the cause Hart v. Cory.

"£467. 12s. 11d.

J. NEWTON."

(C.)

"FORM of the Office Copy of CERTIFICATE of a CHEQUE drawn by the Accountant-general, for the Purchase of Stock in Certificates (A.) and (B.), 27 August 1847.

"CORY v. CORY.

"I do hereby certify that pursuant to an order dated the 1st of December last, I have this day, by note under my hand, written on cheque paper, drawn on the Governor and Company of the Bank of England in this cause for the sum of four hundred and thirteen pounds five shillings and nine pence, which I have made payable to Mr. Edward Mortimer on his causing four hundred and sixty-seven pounds twelve shillings and eleven pence Bank Three per Cent. Annuities to be transferred to me, in trust, in the same cause, according to the directions of the said orders.

WM. RUSSELL, Accountant-General."

1413. Do you know what the amount is that is paid by the Fee Fund for writing the copies of certificates?—The amount paid last year for copying the certificates on which deposits were taken at the Accountant-general's office was 224l. 9s. 2d. for 35,914 folios; and the sum paid into the Fee Fund on account of the same certificates was 757l. 8s.

1414. Mr. Hume.] Then a large portion of that would appear to be useless?—I apprehend so.

1415. Chairman.] Is this a return of the weekly balances for the last six years?—It is.

[The witness delivered in the same, which is as follows:—]

WEEKLY BALANCES of CASH in the Name of the Accountant-general at the Bank of England, from the Year 1842 to 1847 inclusive.

1842.			1843.			1844.			1845.			1846.			1847.		
Jan.	£	s. d.	Jan.	£	s. d.	Jan.	£	s. d.	Jan.	£	s. d.	Jan.	£	s. d.	Jan.	£	s. d.
3	231,674	0 1	2	252,642	5 4	1	235,919	1 4	6	173,540	10 0	5	135,356	7 2	4	94,337	8 0
10	244,418	10 9	9	275,888	18 5	8	232,302	9 3	13	699,300	12 2	12	646,626	1 11	11	622,388	17 10
17	676,189	6 7	16	737,164	7 1	15	788,598	19 6	20	568,611	13 0	19	771,160	11 10	18	2,378,879	18 5
24	546,961	2 7	23	556,598	16 4	22	654,425	3 4	27	423,617	11 1	26	1,968,352	13 1	25	2,266,679	18 0
31	481,697	13 0	30	485,957	1 10	29	577,657	5 2									
Feb. 7	400,062	12 5	Feb. 6	460,066	8 6	Feb. 5	609,843	12 10	Feb. 3	356,692	11 5	Feb. 2	4,863,167	10 4	Feb. 1	2,036,866	15 5
14	389,600	14 10	13	480,329	18 5	12	595,855	14 5	10	1,424,157	2 11	9	11,041,738	4 1	8	1,981,229	15 4
21	333,850	19 8	20	449,668	1 5	19	830,102	2 11	17	1,787,165	19 2	16	10,461,642	12 8	15	1,878,288	3 3
28	409,486	19 0	27	571,195	4 7	26	1,354,097	11 8	24	1,764,889	5 10	23	10,251,063	0 8	22	1,846,129	10 3
March 7	304,767	2 0	March 6	531,935	1 11	March 4	1,319,732	14 5	March 3	1,815,565	10 5	March 2	9,953,954	8 7	March 1	1,760,445	6 8
14	322,145	10 8	13	507,249	19 9	11	1,200,343	12 10	10	2,006,104	19 7	9	9,872,637	13 6	8	1,558,125	11 8
21	312,768	3 2	20	494,147	2 9	18	1,271,444	15 1	17	1,875,781	12 3	16	9,784,233	11 9	15	1,597,315	18 0
28	322,716	8 8	27	477,919	16 0	25	1,233,210	14 8	24	2,335,199	2 2	23	9,772,568	6 9	22	1,606,542	12 11
April 4	281,036	6 4	April 3	438,840	17 2	April 1	1,308,481	19 5	April 7	2,430,996	8 2	April 6	9,474,553	5 11	April 5	1,540,549	7 1
11	288,269	13 0	10	414,266	11 2	8	1,200,000	2 2	14	2,549,848	8 5	13	9,693,649	15 7	12	1,764,026	15 9
18	409,609	2 10	17	542,107	7 8	15	1,407,333	18 8	21	2,528,623	3 5	20	9,486,890	4 4	19	1,694,554	3 6
25	364,917	3 4	24	576,722	18 4	22	1,306,410	7 9	28	2,340,235	4 10	27	9,245,385	3 1	26	1,706,196	0 11
May 2	311,155	12 10	May 1	641,594	1 5	May 6	1,289,643	5 8	May 5	2,307,964	14 11	May 4	9,259,829	16 10	May 3	1,590,402	7 6
9	283,460	12 11	8	603,019	1 9	13	1,019,307	18 11	12	2,369,127	10 5	11	8,303,887	0 4	10	1,512,468	4 5
16	286,632	19 10	16	628,043	1 4	20	1,011,656	2 4	19	2,358,043	2 3	18	8,746,808	3 5	17	1,488,920	13 4
23	328,025	2 0	23	625,997	4 10	27	991,611	19 7	26	2,363,300	18 0	25	8,651,930	13 2	24	1,472,177	7 2
30	345,243	1 7	29	597,709	17 2				31	2,349,811	0 8	30	9,427,952	0 4	31	1,443,886	14 7
June 6	255,558	7 7	June 5	544,941	2 5	June 3	1,025,670	15 10	June 2	2,408,153	17 5	June 1	8,307,068	1 10	June 7	1,316,366	18 11
13	230,631	11 8	12	540,337	16 3	10	966,883	2 1	9	2,206,516	2 7	8	7,925,080	7 5	14	1,207,998	7 11
20	252,917	0 9	19	532,603	15 6	17	860,380	14 3	16	2,220,559	3 0	15	7,758,419	16 7	21	1,319,089	14 10
27	248,639	12 10	26	570,085	15 6	24	836,490	3 10	23	2,065,546	3 11	22	7,709,732	9 1	28	1,284,013	3 8
July 4	210,166	5 4	July 3	668,971	16 11	July 1	841,602	12 8	July 7	2,038,444	0 2	July 6	6,625,292	11 9	July 5	1,256,867	1 9
11	198,140	2 4	10	670,868	6 7	8	797,381	17 0	14	2,441,892	16 9	13	6,961,883	17 7	12	1,825,550	8 0
18	710,579	12 9	17	1,171,182	5 6	15	1,353,074	14 6	21	2,201,805	16 10	20	6,484,477	17 9	19	1,480,235	16 3
25	669,255	8 8	24	988,727	17 9	22	1,127,235	19 4	28	2,185,288	5 4	27	2,676,030	11 0	26	1,320,884	18 2
Aug. 1	544,555	9 6	31	832,686	13 4	29	814,246	18 4	Aug. 4	1,906,349	19 11	Aug. 3	5,280,139	18 0	Aug. 2	1,165,730	7 10
8	529,940	14 5	14	815,247	8 8	12	685,472	8 7	11	1,660,977	4 7	10	4,399,809	7 0	9	915,317	13 0
15	640,037	19 6	21	518,359	3 11	19	296,895	3 10	18	1,528,327	4 1	17	1,893,172	10 6	16	536,837	6 5
22	305,086	17 0	28	249,246	3 3	26	67,880	14 10	25	225,889	4 11	24	537,712	7 2	23	230,478	11 4
29	150,881	12 7							31	143,565	15 3	30	246,830	17 2	30	215,527	16 11
Sept. 5	150,311	19 3	Sept. 4	254,957	9 1	Sept. 2	51,405	5 8	Sept. 6	147,919	13 11	Sept. 7	222,294	17 11	Sept. 6	211,213	19 6
12	147,981	0 5	11	288,060	6 8	9	49,120	16 10	13	146,563	0 8	14	227,616	17 3	13	211,109	1 0
19	147,381	5 11	18	287,526	6 8	16	52,740	11 8	20	146,563	0 8	21	232,924	6 6	20	213,334	1 0
			25	287,526	6 8	23	52,022	15 1	27	146,563	0 8	28	294,998	15 0	27	213,334	1 0
Oct. 1	147,329	9 10	Oct. 2	287,631	6 8	Oct. 7	54,351	7 2	Oct. 4	146,579	10 6	Oct. 5	304,248	15 0	Oct. 4	213,216	13 6
29	279,690	9 11	30	423,697	15 5	14	54,351	7 2	11	145,247	0 6	12	300,122	19 4	11	214,234	1 11
						21	54,351	7 2	18	145,247	0 6	19	294,240	2 7	18	208,227	11 3
						28	220,539	5 9	26	336,071	7 10	26	483,939	11 4	26	404,151	18 4
Nov. 7	259,323	7 3	Nov. 6	302,821	3 8	Nov. 4	218,212	18 1	Nov. 1	338,242	19 4	Nov. 2	478,628	1 11	Nov. 1	397,050	2 1
14	225,117	19 5	13	347,138	11 11	11	161,802	3 11	8	271,136	1 7	9	390,842	0 7	8	333,321	11 11
21	211,886	3 11	20	278,954	9 11	18	85,232	8 7	15	349,761	11 9	16	233,332	11 1	15	330,864	12 6
28	237,246	11 4	27	286,537	14 11	25	88,259	4 4	22	354,300	0 0	23	192,381	17 0	22	291,628	2 5
									29			30	186,400	11 3	29	315,025	4 1
Dec. 5	199,161	18 6	Dec. 4	220,549	1 2	Dec. 2	187,165	15 11	Dec. 1	337,152	7 8	Dec. 7	127,784	3 8	Dec. 6	288,031	3 7
12	216,391	1 7	11	208,132	7 10	9	186,947	15 10	8	281,483	19 8	14	81,805	14 7	13	210,770	0 8
19	222,548	1 11	18	152,542	1 1	16	162,616	7 3	15	284,446	19 2	21	74,437	9 9	20	220,397	7 5
26	231,327	14 2	25	245,526	11 9	23	161,555	17 8	22	166,802	19 8	28	94,600	10 5	27	195,446	6 2
						30	171,524	12 2	29	183,978	16 4						

1416. Is this a list of cash and securities, and other effects, belonging to the suitors of the Court of Chancery?—Yes, this included everything standing in the Accountant-general's books at the Bank of England on the 1st of October last.

[The witness delivered in the same, which is as follows:]

LIST of CASH, SECURITIES, and other EFFECTS, belonging to the Suitors of the High Court of CHANCERY, and standing in the Accountant-general's Name, in the Books of the Bank, on the 1st October 1847.

Total Amount of the	£	s.	d.
Suitors' Cash - - -	2,265,710	14	1
Cash laid out pursuant to several Acts of Parliament, and forming the Suitors' Fund	2,052,464	0	7
Balance of Cash in the custody of the Bank of England - - -	213,246	13	6
Bank 3l. per Cent. Annuities Consolidated	35,722,264	3	3
Reduced Annuities - - -	6,861,198	16	9
£3. 5s. per Cent. Annuities - - -	4,213,413	8	1
Bank stock - - -	344,972	15	10
New South Sea Annuities - - -	86,456	8	9
Old South Sea Annuities - - -	293,126	13	10
Bank Long Annuities - - -	14,520	5	3
Exchequer Bills - - -	249,200	0	0
East India Stock - - -	136,978	8	6
South Sea Stock - - -	41,908	1	10
£3 per Cent. Annuities, anno 1751 - - -	12,710	0	7
Annuities for terms of years, October 1859	1,192	0	0
Ditto ditto January 1860	670	2	5
£3 per Cent. Annuities, anno 1726 - - -	5,569	6	7
New 5l. per Cent. Annuities - - -	6,299	1	3
East and West India Dock Stock - - -	22,844	4	1
London Dock Stock - - -	58,645	8	11
London and North-western Railway Stock	7,500	0	0
Royal Exchange Assurance Stock - - -	3,470	16	2
Hudson's Bay Stock - - -	6,688	17	10
Sicca Rupee Stock, Jan. 1836 3,73,264s. r.	—	—	—
Ditto ditto Aug. 1835 59,850s. r.	—	—	—
Ditto ditto Dec 1834 73,500s. r.	—	—	—
Notes, bills, and private bonds - - -	27,188	2	10
Mortgages - - -	4,732	11	8
Exchequer Orders, 5l. per annum.	—	—	—
Globe Insurance Company, 15 shares of 100l. each.	—	—	—
East India Bonds - - -	1,100	0	0
Dutch Bonds, six bonds of 1,000 guilders each.	—	—	—
	£48,335,896	8	8

The following Articles, the Value whereof is not ascertained, are deposited in the Bank to the undermentioned Matters and Causes:—

Matters Anonymous - - -	A box containing jewels.
John Brand, Esq., a lunatic - - -	A tin box, said to contain a will.
Bickerton, Dame Anne Hussey, a person of unsound mind.	Four chests, numbered 1, 2, 3, 4.
Bariatinsky, Princess Catherine Elizabeth Louisa Maria Frances, a person of unsound mind.	A box labelled "Jewels."
Colman, George, a lunatic - - -	One paper, said to be his will.
Rolle, Lucilla, spinster, a person of unsound mind.	A box, labelled "Lucilla Rolle," &c.
CAUSES.	
Aloof v. Abecasis - - -	A box labelled "Foreign stocks and securities."
Blair v. Marston, Cooper v. Marston, and Marston v. Fox.	Box of plate, foreign and English coin, &c.
Hammet v. Turner - - -	A box, marked "Hammet v. Turner."
Jones v. Lloyd - - -	A bag of clipped money.
May v. Da Costa - - -	One debenture deed.
Pritchard v. Fleetwood, Duke of Hamilton v. Davenport.	One deed of settlement.
Saunders v. Goulty - - -	A tin box, marked "Saunders v. Goulty; plate."
White v. Killersby - - -	Five tallies.
Williams v. Symons - - -	A tin box, marked "X Y Z."

1417. Will you look at that paper (*another paper being shown to the witness*), and see whether that is an account of cash from time to time invested by the Accountant-general on account of the Suitors' Fund?—Yes, except the four sums invested by the Court of Exchequer before the transfer to our office. The investment of the two sums of 93,568*l.* 2*s.* and 94,004*l.* reduced the Exchequer cash very low, to 8,748*l.* 13*s.* 1*d.*

1418. Supposing it were necessary now to repay the whole of the sums so invested by the Court of Chancery, at what price would it be necessary that the stock should be sold in order to realize that amount?—I made a statement of that; I think it was 86½*l.*

No. XXXV.

12 GEO. I. CAP. 32.

AN ACT for the better securing the monies and effects of the suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds, and indorsements thereon, as likewise indorsements on South Sea Bonds.

WHEREAS the Lords Commissioners for the custody of the Great Seal of Great Britain did, on the Twenty-sixth day of May in the Year of our Lord One thousand seven hundred twenty and five, make an Order for the Masters of the High Court of Chancery to deliver into the Bank of England the money, bonds, tallies, orders and effects of the suitors of the said Court, under their respective care and direction, and for other matters therein contained: And whereas the Lord High Chancellor of Great Britain did, by an Order dated the fourth day of November following, direct the said Order of the said Twenty-sixth day of May to be kept and observed, with the explanations, alterations and additions in the said Order of the Fourth of November contained, and did thereby extend the said Orders to the Usher of the said Court, and also to all the effects of the suitors under the care of the said Court: And whereas the ordering part of the said Order of the Twenty-sixth day of May is *verbatim* recited, and contained in the said Order of the Fourth of November, and the said Order of the Fourth of November is as follows:

"*Jovis quarto Die Novembris* One thousand seven hundred and twenty-five.

"*Ordo Curie.*

"Whereas the Right Honourable the late Lords Commissioners for the custody of the Great Seal of Great Britain, taking into their serious consideration the ill consequence and great prejudice which already had and might hereafter ensue to the suitors of this Court, by having their monies left in the sole power of the Masters of this Court; and likewise conceiving that the bonds, tallies, orders and effects of the suitors under the direc-

tion of the said several Masters, then locked up in the vault of the Bank of England in several chests, under the care of the said Masters respectively, and of two of the six Clerks, might be as safely deposited with the Bank of England in the manner herein-after mentioned: And to the end that the money of the suitors might be secured for their use and benefit, with the least charge and inconvenience to them, and that they might receive further satisfaction in relation thereto, and how the same should be applied and disposed of, their lordships did on the Twenty-sixth day of May last order and direct in the words following:

"That every Master of this Court, together with the said six Clerks, do go to the Bank of England, and open their respective chests, and that the said Masters, together with the said six Clerks and one of the Cashiers of the Bank, do make a true and perfect schedule of all the bonds, tallies, orders and effects deposited in the said several chests, specifying their respective numbers, dates, and sums, and likewise of the cash deposited therein, and do by such schedule deliver over the same to the Bank of England, and that at the time of such delivery each Master shall receive from the Bank a certificate of the receipt of the bonds, tallies, orders and effects, and likewise of the cash so delivered by each Master respectively, under the seal of the Bank of England, and that such certificate be carried by each Master to the Report Office, and there filed; and that such bonds, tallies, orders and effects and cash be entred causewise in books to be kept by each Master in the Report Office; and that such Masters as have been deficient in bringing in their balance of cash are hereby required to enter the same

Duty of Masters, &c. as to Bonds, &c. in their custody.

" but not causewise, till they shall have severally made good their whole deficiencies, and that likewise there be entered in such books causewise, the several stocks of which the Masters have already declared trusts in the said several Company's books, and that an exact duplicate of such books be kept with the Bank by each respective Master.

Bank to receive interest on Bonds, &c.

" And it is further ordered, That the Bank shall at all times hereafter receive all interest due upon such bonds, tallies and orders, as likewise the dividend of all such stocks in the Company's books, of which the Masters have declared trusts for the suitors of this Court; and that the Masters do for that purpose, by a proper authority, authorize and empower one of the Cashiers of the Bank to receive the same, and that from time to time such interest of money and dividends of stock be entered in the respective Master's accounts, to be so kept with the Bank in the said books, and that the Masters shall at the end of every term draw out of their respective books at the Bank an account in writing of the interest and dividends so received and entered in their accounts, and enter the same causewise in their respective books at the Report Office.

Masters to bring in balance of cash.

" And it is further ordered, That the several Masters, instead of the stock and annuities, of which they have declared trusts to answer their balance of cash, shall bring in their balance of cash, and deposit the same with the Bank.

Master to direct money, &c. into the Bank.

" And it is further ordered, That when any money or tallies, orders or bonds, at or after the hearing of any cause, shall hereafter be taken under the care and direction of this Court, the Master named by the Order shall direct the payment of such money, or the delivery of such tallies, orders and bonds into the Bank, and upon payment or delivery thereof accordingly, the monies so paid, and the orders, tallies and bonds so delivered, shall be entered in the Masters' accounts kept with the Bank; but the Masters shall have no power to issue any money entered in their said accounts, or to direct any of the said securities to be delivered out, but the same shall be ordered to be paid or delivered to the suitors, in manner herein-after mentioned.

Party paying, to take certificate, and deliver it to Master.

" And it is further ordered, That when any money shall be paid, or tallies, orders or bonds delivered into the Bank, pursuant to the directions aforesaid, the party so paying such money, or delivering in such tallies, orders or bonds, shall take a certificate from one of the Cashiers of the Bank, of his paying and delivering in of the same, and of their being placed to the proper Master's account; and shall carry the said certificate to such Master, who shall thereupon make his report of the payment of such money, or delivery of such tallies, orders and bonds into the Bank, and file the same at the Report Office; and that the Clerk of the said office do enter the same in the Master's book causewise, and place the same to the proper account of the respective Master there.

Money directed to be laid out on Government securities.

" And it is further ordered, That when any money shall hereafter be directed to be laid out on Government securities, the species of the particular securities, in which the same shall be directed to be invested, be for the future mentioned in the Order: And in case any of them shall consist of East India bonds, South Sea bonds, or Exchequer tallies and orders, the same shall be delivered in at the Bank, of which delivery such certificate shall be given to such Master by one of the Cashiers of the Bank as aforesaid, and proper entries thereof shall be made in the account of the Master mentioned in such Order; and if any such securities shall consist of stock in any of the said Companies, such stock is to be transferred to such Master, who shall make a declaration of trust in the Companies books, that the same is subject to the orders of this Court, and shall take a certificate thereof from the proper officer of the respective Company, and likewise enter the same into his book at the Bank, that the Bank may receive the dividends thereupon, and shall also make a report of all such securities; which certificate and report shall be filed at the Report Office, and therein mention and specify the same dates and numbers of such bonds, tallies and orders, and quantities of stock, and of the time of the transfer of such stock to him, and the Clerk of the Report Office is to enter the dates, sums, and numbers of the bonds, tallies and orders, and quantities of stock in such report mentioned, in the proper Master's books kept there.

When securities delivered out of Bank, register to certify.

" And it is further ordered, That when any securities deposited or to be deposited at the Bank, shall be directed by Order of Court to be delivered out, the Register shall certify to the Master what security is to be delivered out, together with the numbers, dates and sums of such securities, and the name of the cause wherein the same is to be delivered out; which certificate the Clerk in Court

or solicitor in the cause shall deliver to the Master, who shall countersign the same, and such certificate so countersigned, shall be a proper authority for the Bank to deliver over such security, and enter the delivery of such securities in the Master's accounts causewise; and it is hereby declared to be the duty of the Master to supervise such entry, and to certify the same into the Report Office there to be filed.

" And for ascertaining the times for the delivering out, and taking in of bonds, tallies and orders, by the Bank, It is hereby ordered, That the same shall be so taken in and delivered out on Wednesdays and Fridays in every week, between the hours of Ten in the forenoon and One in the afternoon, and the Master shall receive from the suitor the usual fees for making the report and filing the same, and no more, and shall answer the fee for filing the report to the Report Office.

Wednesdays and Fridays for taking in, &c. bonds, &c.

" And it is further ordered, That when any stock in any of the Companies books (of which any of the Masters have or shall declare trusts for any of the suitors) shall be ordered to be transferred by any of the Masters to the suitors, the Register shall certify under his hand to the Master what stock he is by such order to transfer, and to whom; which certificate the Clerk in Court, or solicitor in the cause, shall carry to the Master, who shall, within one week, or at the then next opening of the respective Companies books, attend in person and deliver such certificate to the proper officer of such Company, and transfer such stock, or give sufficient authority to some other person so to do.

When stock transferred, Register to certify.

" And it is hereby declared, That such certificate shall be an authority to the respective Companies, to permit the said Master or other persons by them lawfully authorized to transfer such stocks, of which transfer the Master is hereby ordered and directed to make his report, and procure the same to be filed in the Report Office, for the making and filing of which report the Master shall receive from the suitor the usual fees, and answer the fee for filing of the report to the Report Office; and the transfer of such stock shall be certified by the Master to the Bank, in order that such stock may be discharged out of the account of the Master in his book there.

Register's certificate.

" And it is further ordered, That when any money belonging to the suitors of this Court, received by the Bank pursuant to this or any other Order for that purpose made, shall be directed to be paid by Order of this Court, the Clerk in Court, or solicitor in the said cause, do carry the said Order to the Master, who shall forthwith make a certificate thereof, which certificate such clerk or solicitor shall forthwith file in the Report Office; and that the Master do, by note under his hand, draw on the Bank for so much money as shall be so directed to be paid, upon cheque paper, fairly written and signed by the Master, which note of the Master shall be carried to the Report Office, and an entry made thereof in the Master's book there, and *Intratur* shall be written thereon, and signed by the Register; which note so entered and signed shall be sufficient authority to the Bank to pay such money to the person mentioned in such note, or to such person as he or she by indorsement shall order to receive the same, as likewise to write off the same from such Master's account there; but when any sum of money shall be directed to be paid to any suitor out of such money so to be received by the Bank for interest or maintenance, the Master shall by note under his hand upon cheque paper, without any certificate, draw on the Bank for the same; and such note being signed by the Master, and entered in the Report Office, and countersigned by the Register as is before directed, shall be a proper authority for the Bank to pay the same.

How money to be paid to suitors.

" And it is further ordered, That Mr. John Bennett, Mr. Conway, Mr. Kinaston and Mr. Thomas Bennett, do in their books to be kept in the Report Office and at the Bank, enter their respective deficiencies of their balance of cash, and do forthwith sell the several estates and effects that they have conveyed and assigned to Mr. Holford, and that the money arising by the sale thereof be by the purchasers paid into the Bank, and that the said Masters do immediately pay and make good their said deficiencies; and in default thereof, upon application to be made by the said suitors by petition (for which petition no fee or reward shall be taken), the Court will make such further order for their relief as shall be just.

Mr. Bennett, &c. to enter deficiencies of cash.

" And it is hereby further ordered, That Mr. Edwards do forthwith make up the account of what he has received of the effects of Mr. Dormer, and how the same has been paid out, when, to whom, and by what Order: And that Mr. Thurston do make up the account of what he hath received of the effects of Mr. Borrett, and what he hath paid out to the suitors of the Court, when, to whom, and by what order; and that such accounts be entered in

Mr. Edwards and Mr. Thurston to make up accounts of Mr. Dormer and Mr. Borrett's effects.

" their respective books at the Report Office; and whatever shall be remaining in their hands, due to the suitors of the Court out of the effects of Mr. *Dormer* or Mr. *Borrett*, or shall hereafter come to their hands out of the said effects, shall be by the said Mr. *Edwards* and Mr. *Thurston* respectively paid into the Bank, and entred in distinct accounts to be kept there, and upon petition by the suitors to whom such money shall belong (for which petition no fee or reward shall be taken) the Court will make such further Order therein as shall be just.

" " And it is further ordered, That every Master do, on the first day of every term, give an account in writing to the Secretary of the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal for the time being, of all monies and securities, or stocks that they have issued or transferred in the respective causes before them since their last account, together with the dates of such Orders, and that the Masters do diligently, from time to time, compare such account with their books kept at the Report Office and at the Bank.

" " And it is further ordered, That all the present Masters of this Court, and every other person who shall hereafter be admitted and sworn as a Master of this Court, and all other persons whatsoever, do in all things conform to and observe this Order, and all matters and things herein contained.

" " And it is further ordered, That no person or persons whatsoever shall receive or take any fee or reward for doing or transacting any business, matter, or thing in pursuance of this Order, other than the Masters of this Court, and the Clerk of the Report Office respectively; and the Masters shall only take the same fee for a certificate as they have been intitled to for a report, and no more; and the Clerk of the Report Office shall only take the same fee for filing the certificate or report as the Clerk of the Report Office has been intitled unto for filing the same; and that any person presuming to take any new fee or reward shall be looked upon as guilty of extortion, and upon complaint thereof made to the Court shall be punished with the utmost severity.

" " And it is further ordered, That this Order be forthwith published, and set up in all the offices belonging to this Court concerned in this Order."

" " And whereas the said Order is for the benefit and security of the suitors of this Court, and may be further improved to that end, by the several alterations, additions and explanations herein-after contained; therefore it is now ordered by the Right Honourable the Lord High Chancellor of Great Britain, that the said Order of the Twenty-sixth day of May last, wherein it is not herein-after varied or altered, shall be firmly kept and observed, together with the explanations, alterations and additions following.

" " And it is hereby ordered and directed, That all the Masters of this Court do forthwith bring in and leave, with the Register of this Court compleat accounts, home to the time of bringing in such accounts, of all monies, stocks, bonds, tallies, mortgages, securities and other effects belonging to any of the suitors of this Court, in their respective hands, custody or power, or for which they are respectively answerable, and not included in any of their accounts formerly delivered into the Register's Office; and that all the said Masters do forthwith, by schedule, deliver over to the Bank of England, all sums of money, bonds, notes, orders, tallies, deposits, securities and other effects in any wise belonging to the suitors of this Court in their respective hands, power or custody, or for which they are answerable, mortgages only excepted; and shall also specify in such schedule the several annuities and stocks which each of them respectively by himself, or jointly with others, hath in trust for any of the suitors of this Court, and that at the time of the delivery of such money and other effects, such Master shall receive from the Bank a certificate of the receipt thereof, and also of the said specification of the said annuities and stocks, under the seal of the Bank of England; and that such certificate be carried by each Master to the Report Office, and there filed; and that such sums of money, bonds, notes, annuities, stocks and other securities and effects of the suitors, shall be entred causewise in books kept by each Master in the Report Office, and in the Bank, except as to such Masters who are deficient in their balance of cash; which deficient Masters are hereby required to enter the same in their respective books, left at the Bank and at the Report Office, but not causewise, till they shall severally have made good their deficiencies, except such securities or stocks as were specifically appropriated, or trusts declared, to or for any of the suitors of this Court; which said stocks and securities such deficient Masters, as well as the other Masters, are respectively to enter in their said respective books cause-

" wise; and the Bank is to receive the interest, produce and dividends of all the said securities, annuities and stocks, as also the interest, produce and dividends due or hereafter to be due on all stocks, bonds, tallies, orders, annuities and other securities, whereof any of the Masters of this Court are now possessed, or hereafter shall be possessed of, in trust for the suitors of this Court, or have already declared, or at any time hereafter shall declare, any trust for any of the said suitors; and that each Master of the Court do, from time to time, empower one of the Cashiers of the Bank to receive the same; and that from time to time such interest, produce and dividends shall be entred in the respective Master's accounts at the Bank; and that at least at the end of every term, but oftner if there be occasion, the Bank shall certify causewise to each Master the several sums so received, respectively belonging to the suitors of this Court, under such Master's respective care and inspection, to the end that each Master may make like entries in the respective books kept by themselves, and likewise deliver a copy thereof to the Clerk of the Report Office, who is forthwith to cause the same respectively to be entred causewise in the respective Master's books at the Report Office: And as to mortgages, which any of the Masters of this Court have now singly by themselves, or jointly with others, in trust for the suitors of this Court, the particular trust shall be indorsed on the back of the mortgage deed, if it be not so already indorsed, or inserted in the body of the deed; and as to all such future mortgages, the particular trusts shall be inserted in the body of the mortgage deed; and all interest and principal to be hereafter paid in on all such mortgages, shall, by the party paying, be paid into the Bank, in manner and form as is herein-after directed concerning the payment of money into the Bank.

" " And whereas in and by the said recited Order it is ordered, That when any money, tallies, orders or bonds, at or after the hearing of any cause, should be thereafter taken under the care and direction of this Court, the Master named by the order should direct the payment of such money, or the delivery of such tallies, orders and bonds into the Bank, with other provisions therein contained: Now, for the explaining and enlarging the said part of the said Order, it is hereby further ordered, That all monies, tallies, orders, bonds, securities or other effects of the suitors of this Court, by any former Order directed to be brought in before, paid or delivered to any Master of this Court, which have not yet been so paid in or delivered, and also all monies, tallies, orders, bonds, securities and effects, either before, at or after the hearing of any cause to be hereafter directed to be taken under the care of, or to be brought before, or delivered in, or paid to any Master of this Court, shall not be brought before, delivered or paid to such Master; but when any security, sum of money or other effects are ready to be delivered or paid in, in obedience to any such Order, the Master to whom the cause stands referred, or to whom or by whom the delivery or payment is directed to be made, shall, on application by the party interested, his clerk in Court or solicitor in the cause, certify the date of such order, and the sum of money, tallies, orders, bonds, deposits, securities and other effects then to be paid or delivered in upon such order, and the name of the cause, to the account of which the same is to be placed; and upon the said party's, or his clerk in Court, or solicitor's delivering such certificate, and payment of such money, or delivering of such tallies, orders, bonds, securities or other effects into the Bank, the same shall be entred in the respective Master's accounts in the Bank, and be under the same regulations as in the said recited Order and herein-after is prescribed.

" " And whereas, according to the method prescribed by the said recited Order, for the payment of any money out of the Bank, belonging to the suitors of this Court, the Master observing the regulations in the said recited Order contained, is, by note under his hand, to draw on the Bank for such money as shall be ordered by this Court to be paid, which note is to be first carried to the Report Office: Now it is hereby further ordered, That such note shall be so limited to be paid within a month after date; and that if it be not paid within such time, the note shall be void; and that when such note is carried to the Report Office, there shall be also carried with it the Order whereby such payment was directed to be made, and an entry shall be made in the Master's book at the said office, not only of the said note, but also a memorandum that it was drawn by virtue of such Order, and thereupon an *Instratur* is to be made, and such other proceedings had, as in the said recited Order are for that purpose prescribed.

" " And whereas by the said recited Order it is directed, That where securities deposited or to be deposited with the Bank shall be delivered out, proper entries shall

When money, &c. directed to be paid in, Master to certify date of Order, &c.

Date of Master's note for paying money out of Bank.

Duty of Clerk of Report Office as to securities.

"be made thereof in the Master's accounts at the Bank causewise, of which entries certificates shall be filed in the Report Office; but no provision is made in such Order for the like entry in the Master's books in the Report Office: It is therefore ordered, That when the Masters do at any time hereafter certify to the Report Office such entry, of the delivering out such securities as aforesaid, the Clerk of the Report Office shall make entries according to such certificate in the respective Master's books kept in that office, of the delivering out such securities as aforesaid.

Mr. Godfrey.

"And whereas since the making of the said Order of the Twenty-sixth day of May last, *Richard Godfrey*, Esquire, one of the Masters of this Court, hath been deficient in bringing in his balance of cash, and is now a deficient Master: It is therefore hereby ordered, That the said *Richard Godfrey*, and his estate, and the monies, securities and effects of the suitors in his hands, custody or power, or under his care, shall be subject to the same methods, rules, orders and regulations as are in and by this and the said recited Order prescribed and appointed, in relation to the deficient Masters.

"And forasmuch as no directions or provisions are laid down in the said Order relating to the stocks, securities, monies or effects of or belonging to the suitors of this Court, in the name, hands, or custody, or under the care of the Usher of this Court, and to the intent that due caution may be taken touching such stocks, securities, monies and effects, and one uniform method may be observed: It is therefore further ordered, That the Usher of this Court do, as to all stocks and annuities of the suitors of this Court, standing in his name, forthwith deliver into the respective Companies a declaration in writing, that such stocks and annuities are in trust to answer the Orders of this Court; and the said respective Companies are to take care that proper entries be made thereof in their books; so that such stocks or annuities be not transferred but by order or leave of the Court; and that the said Usher do forthwith bring in and leave with the Register of this Court a complete account, home to the time of bringing it in, of all monies, stocks, bonds, tallies, mortgages, securities and other effects belonging to any of the suitors of this Court, in his hands, custody, or power, or for which he is answerable; and that he do likewise forthwith, by schedule, deliver over to the Bank of England causewise, all sums of money, bonds, notes, orders, tallies, deposits, securities and other effects of the suitors of this Court in his hands, custody or power, or for which he is answerable, mortgages only excepted; and do also specify in such schedule the several annuities and stocks which stand in his name, or he hath either singly or jointly with others, in trust for any of the suitors of this Court; and that he do receive from the Bank a certificate of the receipt of such schedule, and carry the same to the Report Office, and there file it; and that such sums of money, bonds, notes, annuities, stocks and other securities and effects of the suitors, shall be entered causewise in books kept by the Usher in the Report Office and in the Bank; and that the like method and manner be in these particulars observed by the Usher, as in and by this Order and the said recited Order is prescribed to the Masters of this Court; and the Bank is to receive the interest, produce and dividends of all the said securities, annuities and stocks, as also of all stocks, bonds, tallies, orders, annuities and other securities, whereof the Usher is or shall be possessed in trust, for any of the suitors of this Court, or hath or shall declare any trust for them, the Usher authorizing one of the Cashiers of the Bank to receive the same; and such entries are to be made thereof, and such rules to be observed, as herein and in the said recited Order are set down, to and for the Masters of this Court; and as to mortgages, which the Usher of this Court, either singly or jointly, now hath, or hereafter may have in trust for the suitors of this Court, the same rules and methods shall be observed by the Usher as in the like cases are herein-before prescribed to the Masters.

"And it is hereby further ordered, That where any money, tallies, orders, bonds, mortgages, securities and other effects of the suitors of this Court, have by any former Order been directed to be brought into this Court, or to be brought before, paid or delivered to the said Usher, and have not been yet so brought before, paid or delivered, the same and also all monies, tallies, orders, bonds, securities and other effects, either before, at or after the hearing of any cause to be hereafter ordered or directed to be brought into this Court, or to be taken under the care of the Usher, shall not be brought before, delivered in or paid to the Usher, but shall be paid or delivered in to the Bank of England, under the regulations and in the manner as the Masters are herein and in

"the said recited Order required to do; and the Usher shall on his part, in all things relating herunto, act in like manner as the Masters are in such cases obliged to do.

"And it is likewise further ordered, That if any money or effects of the suitors of this Court, shall by the Usher, or in his name, be laid out or invested in any bonds, tallies, orders, stocks, annuities or other securities, the same methods, orders and regulations shall be observed by the Usher and others, in relation thereto, as hereby and by the said recited Order are in like cases prescribed to the Masters.

"And it is also further ordered, That when any stocks or annuities in the name of the Usher shall be hereafter transferred, or any deposits, money, interest or dividends, or other thing contained in the said Usher's account, shall be paid or delivered out of the Bank, the same method shall be observed, and the said Usher and all others shall act and do in all things relating thereto, as the Masters of this Court are hereby appointed to do; and in general the same rules, methods, orders and regulations, which are hereby and by the said recited Order directed and prescribed to be observed, performed and done by and to the Masters of this Court, with respect to the monies, stocks, bonds, mortgages, tallies, orders, annuities, securities and other effects of the suitors of this Court, in their name or under their inspection and care, shall be in like cases, *mutatis mutandis*, observed, performed and done by and to the Usher of this Court, with respect to the monies, stocks, bonds, mortgages, tallies, orders, annuities, securities and other effects of the suitors of this Court, in his name or under his inspection or care.

"And forasmuch as the Usher of this Court hath usually had and received, upon the payment of any money or effects into his hands, pursuant to the Order of this Court, Two shillings for every receipt or certificate by him signed, testifying the receipt of such money or effects, and hath also usually had and received Twopence in the pound of all monies or effects paid or delivered out by him to the suitors of this Court; therefore it is further ordered, when any money or effects belonging to the suitors of this Court, paid into the Bank in the name or on account of the Usher, shall be directed to be paid out by the Order of this Court, and the Usher is to make a certificate thereof, to be filed in the Report Office, the said Usher shall have and receive Two shillings for signing such certificate; and for every draught that he shall make on the Bank, he shall, at the time of such draught, receive Twopence in the pound of all money contained in such draught, draughts for interest or maintenance excepted; and if the said Usher shall presume to take any other fee or reward, he shall be looked upon as guilty of extortion, and upon complaint thereof made to the Court, shall be punished with the utmost severity.

"And to the end that the directions herein-before given may from henceforth be uniformly observed, It is hereby further ordered, That in all Orders to be hereafter made, relating to the monies or effects of the suitors of this Court, the several rules and directions of this Order shall be observed and followed, although the same should not be particularly expressed in any such future Order.

"And it is further ordered, That this Order be forthwith published and set up in all the offices belonging to this Court, concerned in this Order.

"*Intr. Edw. Goldesbrough, Dep. Reg.*"

II. And whereas in pursuance of the said Orders several of the effects of the suitors of the said Court have been delivered into the Bank of England, and the said method is for the benefit and security of the suitors, and fit to be observed, subject nevertheless to such alterations and other regulations as may at any time hereafter, from the exigency or circumstances of affairs, be found reasonable or proper by the said High Court of Chancery: Be it therefore enacted, by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said two Orders of the High Court of Chancery be confirmed, and that the same shall be henceforward observed and kept, unless in such points as shall be varied in this present Act, or shall at any time hereafter be varied or changed by the High Court of Chancery, according as the said Court shall, from the exigency or circumstances of affairs, judge reasonable or proper.

III. And to the end the account between the suitors of the High Court of Chancery and the Bank of England may be the more regularly and plainly kept, and the state of such account may be at all times seen and known, Be it further enacted by the authority aforesaid, That there shall be one person appointed by the High Court of Chancery to

Usher to observe Orders.

Transferring deposit in the Bank.

Usher of Court, his duty

Usher's fee.

Extortion.

Order to be observed.

To be published.

Where money, &c. ordered to be paid to Usher, it shall be paid into the Bank.

Orders confirmed.

Accountant-General of the Court of Chancery appointed.

act, perform and do all such matters and things relating to the delivery of the suitors money and effects into the Bank, and taking them out of the Bank, and the keeping the accounts with the Bank, and all other matters relating thereto, as in and by the said recited Orders, or either of them, are prescribed and directed to be done and performed by the Masters and Usher of the said High Court of Chancery, which said officer so to be appointed shall be called the Accountant-General of the Court of Chancery, and shall hold such office during the pleasure of the said Court; and an account shall be kept in his name with the Bank of England, for and on the behalf of the suitors of the said Court of Chancery, in such manner as is directed by the said recited Orders with respect to the Masters of the said Court and the Bank; and the same rules, methods, and directions as are prescribed by the said Orders to the suitors, the Masters, Usher and Bank, as to the delivering into and taking out of the Bank the monies and effects of the suitors, and other matters therein contained, shall be observed by the suitors, the Bank and the said Accountant-General, unless where the Court of Chancery shall, according to the exigency and circumstances of affairs, otherwise determine and appoint.

IV. And it is hereby further enacted by the authority aforesaid, That the said Accountant-General shall, as to the several regulations and directions prescribed in the said Orders, stand and be in the place and room of the Masters and Usher of the said Court, and shall receive no other fee or reward from the suitors for the exercise of his said office, than what is allowed to the Masters in and by the said Order of the Twenty-sixth day of May One thousand seven hundred and twenty-five; and the several Masters and Usher of the Court of Chancery, their executors and administrators, are hereby required, with convenient speed, to make up their several accounts with the said Accountant-General, or any other person thereunto authorized by the Court of Chancery, of all the monies, securities and effects of the suitors of the said Court in their custody, or under their direction or care; and to pay and deliver into the Bank all monies, deposits and effects of the suitors of the said Court yet remaining in their several hands, there to be carried to the account of the said Accountant-General, and to be placed causewise or otherwise, as is already or shall hereafter be directed by the said Court; and all monies, deposits and effects of the suitors of the said Court, already deposited with or delivered to the Bank by the said Masters or Usher, or on their account, shall in like manner be carried to the account of the said Accountant-General, and be placed causewise or otherwise, as is already or shall hereafter be directed by the said Court; and that the said Masters and Usher, their executors and administrators, shall be indemnified and discharged of and from all monies, deposits and effects of the said suitors so paid or delivered into the Bank as aforesaid.

V. And it is hereby further enacted, That all mortgages, tallies, orders, stocks, annuities and other transferrable securities, now in the name of any of the said Masters or Usher, either singly by themselves, or jointly with others, in trust for the suitors of the said Court, shall be assigned and transferred to the said Accountant-General; and such assignments and transfers shall be freed and discharged from the stamp duty, and from any other duty imposed thereon by Act of Parliament; and that all mortgages, tallies, orders, stocks, annuities and other transferrable securities, to be hereafter taken by the directions of the said Court for the benefit of any of the suitors, shall, if appointed to be taken in the name of any officer of the said Court, be taken in the name of the said Accountant-General; and that in all such assignments and transfers to the said Accountant-General, as also in all such other transferrable securities to be hereafter taken in his name, the particular trust shall be specified and inserted in the assignment, transfer or security itself; and such other rules and methods of proceeding shall be had and observed with

respect to such transferrable securities, by the Accountant-General and others, as by the said recited Orders are respectively appointed to be observed by the Masters, Usher and others.

VI. Provided nevertheless, That notwithstanding anything in this Act contained, the said Court of Chancery shall have full power and authority, from time to time, according to the exigency of affairs, to vary, alter or change any part of the regulations in the said Orders, or hereinbefore contained, and to make such further or other regulations about the premises, as to the same Court shall seem meet and reasonable.

VII. And it is hereby further enacted, That from and after the death or removal of any Accountant-General, all mortgages, tallies, orders, stocks, annuities and other transferrable securities, vested in him at the time of such his death or removal, in trust for the suitors of the said Court, shall vest in the succeeding Accountant-General, for the same estates and interests as he then had therein, and subject to the same trusts, without any assignment or transfer whatsoever; and that upon such death or removal of any Accountant-General, all monies, deposits and effects of the suitors of the said Court, for which he shall then have credit in his account with the Bank, shall be carried to the account of the succeeding Accountant-General.

VIII. And to the end that all misapplications or wastings of the subjects money by any officer of the High Court of Chancery may be intirely prevented for the future, Be it therefore further enacted by the authority aforesaid, That the said Accountant-General shall not meddle with the actual receipt of any of the money or effects of the suitors, but shall only keep the account with the Bank; and the said Accountant-General, observing the rules hereby prescribed, or hereafter to be prescribed to him by the said Court, shall not be answerable for any money or effects which he shall not actually receive; and the Bank of England shall be answerable for all the monies and effects of the suitors which are or shall be actually received by them.

IX. And be it likewise further enacted by the authority aforesaid, That if any person or persons shall, from and after the First day of May in the year of our Lord One thousand seven hundred and twenty-six forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting the name or hand of the said Accountant-General, the said Register, the said Clerk of the Report Office, or any of the Cashiers of the said Governor and Company of the Bank of England, to any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing whatsoever, for or in order to the receiving or obtaining any the money or effects of any of the suitors of the said Court of Chancery, or shall forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, in form of a certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made by such Accountant-General, Register, Clerk of the Report Office or any of the Cashiers of the said Governor and Company of the Bank of England, or any bond or obligation under the common seal of the United Company of Merchants of England trading to the East Indies, or any indorsement or assignment thereon, or on any bond or obligation under the common seal of the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery; or shall utter or publish any such knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; then every such person and persons so offending (being thereof lawfully convicted) shall be and is hereby declared and adjudged to be guilty of felony, and shall suffer death as in case of felony, without benefit of clergy.

Chancery may alter any part of Orders.

Death, &c. of Accountant, securities vested in successor.

Accountant not to meddle with suitors, money, &c.

Forging hand of Accountant, &c.

Death.

To be in place of Masters and Usher of Court.

Mortgages, &c. now in name of Masters, &c. assigned to Accountant.

No. XXXVI.

FURTHER STATEMENT by the ACCOUNTANT-GENERAL in answer to the INQUIRY addressed to him by the CHANCERY FUNDS COMMISSIONERS as to the SYSTEM of the ACCOUNTS kept by the BANK OF ENGLAND.

In the year 1846 the greater portion of the stock then standing in the Accountant-General's name on account of the Litigated West India slave Compensation was by the direction of the Lords of the Treasury, pursuant to Act of Parliament, transferred to the Commissioners of the National debt. The small amount left in his name related to claims which were certified by the Treasury to be the subject of suits and proceedings. The books and papers relating to the West India business were deposited in the Record Office, and it appears to have been thought unnecessary to keep up the duplicate account already referred to by the Accountant-General, (Paper No. 23, par. 40,) as having been thought by Mr. Neale essential to maintain accuracy.

Among other transfers made by the Accountant-General, pursuant to decrees of the Colonial Courts, or the directions of the Lords of the Treasury, out of the amount left in his name, was one of 2771. 6s., in July 1859, under their Lordships' authority, and relating to a claim from British Guiana. The sum so transferred, although forming part of the amount originally standing in the Accountant-General's name, had been regarded by the Treasury as unclaimed compensation, and in fact was included in the sum transferred under their authority to the Commissioners as above mentioned, so that though there was plenty of stock to enable the Accountant-General to make, and the Bank to permit the transfer, yet, properly speaking, there was nothing in his name liable to meet that particular claim. Upon a very recent investigation among the papers relating to the West India business, for the purpose of answering an inquiry from the Treasury as to how the amount of stock left standing in the Accountant-General's name had been reduced to its present amount, the circumstances connected with the erroneous transfer were discovered, and communicated by

the Accountant-General to the Treasury, and their Lordships have directed the amount so taken away to be replaced. Having fortunately at their disposal a sum of cash which had, under the Act of Parliament, reverted to the public, subject to the charges of the West India Compensation proceedings, they directed the purchase of a sufficient sum of stock to be transferred into the Accountant-General's name. Had the Chancery system of keeping at the Bank distinct "causewise" accounts, showing the amount of stock belonging to each claim, been adopted, such an occurrence could not have taken place. The Bank would have stopped the transfer, because, in the case of the Chancery transfers, unless one of their own officers has certified that there is sufficient stock on the particular account to enable the transfer to be made, it is not allowed to go on. With all the care that is at present taken with the accounts at the Accountant-General's office it has occasionally happened that transfers of a wrong description of stock, or of a larger amount than the particular account would justify, have been put forward, but the duplicate account system has been a preventive to their execution, and has obviated the difficulty, and probable loss, which would otherwise have been occasioned.

The Accountant-General, believing the suggestion of the abolition of the Bank duplicate accounts to have been founded on an insufficient consideration of the intricacy of the rights administered by the Court, and declared by its orders, and to have been made without a due insight into the necessary complexity of their financial detail, thinks it essential to lay this statement before the Commission, in order to its being incorporated with the evidence which he has already furnished upon this most important subject.

WM. RUSSELL, A. G.

No. XXXVII.

MEMORANDUM prepared by Mr. CRAWFORD and Mr. ANDERSON in reference to the establishment of a SYSTEM of AUDIT in place of the Check hitherto afforded by the Duplicate Causewise Accounts kept at the Bank.

At the Meeting held on the 22nd of July last, we were requested to prepare, for the consideration of the Commission, a plan for the establishment of an efficient system of audit of the accounts of the Court of Chancery, in the Department of the Accountant-General, in place of the check hitherto afforded by the plan of duplicate causewise accounts kept in the Chancery Office at the Bank of England.

As the result of our inquiry we submit to the Commission, that the principles and practice of the system under which the public accounts, and more particularly those of the Admiralty and War Office, as explained at page 32 of the Appendix to the Report of the Select Committee of the House of Commons on Public Monies 1857, (see extract annexed) undergo audit, may be applied with facility and advantage to the audit of the administration by the Accountant-General, of the Suitors' Funds in the Court of Chancery.

An effective audit, conducted on the principles referred to, ought, in our opinion, to attain the objects sought for. On the one hand it should satisfy the Suitors concerned and the public generally as to the integrity of the administration of the funds in Court; on the other hand it should operate in the way of a discharge to the Accountant-General from his responsibilities.

It will necessarily embrace two distinct things; in the first place a verification of the authority under which the acts of the Accountant-General, as affecting the funds under his charge, have been done; and, secondly, an examination and authentication, by voucher, of the accounts of the office, as proceeding from those acts.

Under ordinary circumstances these separate duties of an auditor might properly be performed by the same person. If the orders of the Court could be so framed as to embody clearly in an abstract or pay sheet attached to each order, for the use of the Accountant-General, a specification of the money directions embraced in the orders, as recommended by one of the members of the Commission, and referred to at page lii. of the Report, a person practically acquainted with accounts and the duties of an auditor, with competent assistants, could efficiently perform the whole duty of verifying the accounts; but if the authorities

for the acts of the Accountant-General are to be framed, as at present, in such a form as to render it necessary that they should be tested by the examination of a member of the legal profession, capable of correctly interpreting them, we are of opinion that it will be found desirable that the office of auditor should be held by a person of legal acquirements, assisted by a staff of competent accountants.

It may be worthy of consideration whether he might not also be charged with many of the duties now performed by the solicitor to the Suitors' Fund, on the occurrence of a vacancy in that office.

How far it might be practicable or expedient to extend the check of the audit to the acts of the Registrars in the preparation of the orders of the Court is a question which we submit for the consideration of the legal members of the Commission.

The auditor should personally verify the balances of cash and stock, and should testify to the safe custody of all securities and other property of value in Court.

The auditor should submit to the Lord Chancellor periodical reports upon the result of his audit, and the condition of the various funds of the Court; and an annual report should be laid before Parliament.

We have not attempted to deal with the practical details of the plan of audit thus recommended; we have considered it sufficient to indicate the principles upon which it should be formed; and nothing more appears to us to be required to enable the practical officers engaged in the transaction of the pecuniary affairs of the Court to prescribe the necessary routine for properly carrying them into effect.

R. W. CRAWFORD.
W. G. ANDERSON.

London,
24th Nov. 1863.

EXTRACT FROM APPENDIX No. 1. to the REPORT of the COMMITTEE of the HOUSE of COMMONS (1857) on PUBLIC MONIES. (Referred to in preceding Memorandum.)

Appropriation Audit.

It has been already stated that a real control over the Government in the application of the annual votes of

Parliament is already in partial operation, and this control has been referred to as one which, if the application of it were extended to the whole receipt and expenditure of the Government, would supply the defects of the control supposed to be at present exercised by the Exchequer. As this addition to the previously existing checks is comparatively a modern introduction, and as the efficiency of an appropriation audit by the Audit Board of authenticated expenditure has not been so fully recognized as its practical value would seem to justify, owing probably to its hitherto limited application and its silent introduction, it may be useful here to trace its origin and progress.

Its origin.

In the interval which elapsed between the completion of the Report of the Commissioners of Public Accounts on the Exchequer in 1831 and the passing of the Act 4 Will. 4. c. 15. in 1834, by which the old Exchequer was abolished, and the new department was placed on its present footing, the Government of Lord Grey had to deal practically with the question of the misappropriation of the annual grants of Parliament. It was discovered that in the naval department, for a series of years prior to 1831, systematic misappropriation of the separate grants made for naval services had from year to year taken place. It is not necessary here to particularise those irregularities, as they were fully discussed in the House of Commons at the time; it will be sufficient to state that monies voted for specific objects had been systematically applied to other purposes not sanctioned by Parliament. The question which Lord Grey's Government had to determine was, what security could be offered to the House of Commons against the recurrence of similar evils?—was the remedy sought in the constitutional control of the Exchequer? The money supplied for the misappropriations complained of had been issued by the Exchequer itself, and so far from that department having the means of preventing them, it was ignorant of the existence of any irregularity. The Report on the Exchequer was then before the Government, and the measures for giving effect to the recommendations which it contained were under consideration. Yet the Government does not appear to have considered that the check of that department upon misappropriation could be of the least avail in repressing the irregularities for which a remedy was required; and the Government was right. To provide a remedy it was necessary to investigate the causes. These were:—Loose estimates, which did not truly represent the financial requirements of the naval service;—an incomplete system of accounts, which did not and could not exhibit the naval expenditure under the heads of the separate grants of Parliament;—a tardy examination of accounts, which would have delayed the preparation of audited returns of expenditure to a period when they would have been of no practical value;—but, above all, the absence of any returns to the House of Commons upon which reliance could be placed, showing how far the intentions of Parliament had been complied with in the application of the naval grants.

It was evident that at the root of all these defects lay an imperfect system of accounts. Without correct accounts of past expenditure it was impossible to prepare correct estimates of future expenditure. In the absence of correct accounts of current expenditure it was impossible to regulate properly the application of the annual grants. Without a complete system of accounts the arrears of unaudited expenditure could not be kept in view, and balanced accounts of the naval expenditure compared with the separate grants could not be prepared for the information of Parliament.

Preparatory measures adopted.

The Commissioners of Accounts, in their Report on the Exchequer in 1831, had recommended "the introduction of the commercial system of book-keeping by double entry in its purest and most simple form in all the public departments," considering its application "as forming the necessary groundwork of any really important improvement;" and, after recommending the appointment of a commission annually to examine the accounts, they added, "At the same time that we propose this new security for the faithful appropriation of the public money, we beg to repeat that the best security will be obtained in such a system of public accounts as is founded on the principles we have suggested." The system recommended was therefore applied to the whole of the various, complex, and extensive accounts of the navy; and the results of the naval receipt and expenditure were condensed in a concise and intelligible balance sheet, the

annual estimates were revised, and all arrears of accounts cleared off. But it was necessary to go one step further to give permanency to these improvements, and to provide a security for the presentation to Parliament annually of accounts which should faithfully represent how far the directions of Parliament had been complied with in the application of the grants. The Government therefore submitted, for the sanction of Parliament, that the naval accounts should be placed under the supervision of the Commissioners of Audit, that they should be audited by the Commissioners as to the appropriation of the grants, and that an annual account should be laid before the House of Commons, with the certificate of the Audit Board as to its accuracy. These provisions were embodied in the Act 2 Will. 4. c. 40. The first naval account laid before the House of Commons in pursuance of this Act was for the year 1832–33.

Extension of the Audit to the Military Services.

In 1846 these regulations were extended to the accounts of the War Office, Commissariat, and Ordnance, the estimates of these departments having been previously revised. The Act 9 & 10 Vict. c. 92., providing for the preparation, audit, and presentation to Parliament of annual accounts of the receipt and expenditure of all the naval and military departments, was passed in that year. This Act is the authority under which the naval and military accounts are now prepared.

Nature of the Audit.

It is necessary to examine the nature of this audit of appropriation, and the means placed at the disposal of the Commissioners of Audit for conducting it.

Requirements of the Act 9 & 10 Vict. c. 92.

The requirements of the Act are, that the several departments referred to shall prepare, on or before a day named in the Act, annual accounts of the receipt and expenditure of their respective grants for the service of the year, classed under the several heads of service as expressed in the Appropriation Act; that the expenditure included in such accounts shall be confined to sums finally expended and accounted for; that the Commissioners of Audit shall examine these accounts, compare the same with the books and vouchers of the several departments, and certify thereon as to the correctness or otherwise of the sums therein charged. They are required, moreover, to transmit to the Treasury a report upon each account, in which they are to recapitulate the several heads of the account under which the sums expended may have exceeded the sums voted, and to give under each head the explanations which may have been furnished to them of the causes of excess. They are to certify, also, whether such excesses have been sanctioned according to the provisions of the Appropriation Act; and they are to advert in their report to any items in respect of which their objections shall remain unsatisfied. Finally the Act requires that the Treasury shall lay these accounts and reports before the House of Commons within a specified time.

It will convey some idea of the extent of the duty thus imposed upon the Audit Board if an outline is given of the course which the monies take before they are finally accounted for, and are charged as expenditure against the votes of Parliament.

Course which the Public Monies take.

The monies drawn from the Exchequer are applied partly to final payments for supplies made or services performed and admitted, and partly to imprests or advances of which an account is to be subsequently rendered. The record of the final payments is direct and simple. It is not so, however, with imprests or advances, which pass through many hands before they are finally expended. For instance, the Paymaster-General may make an advance out of the naval moneys drawn from the Exchequer to a naval store-keeper. This officer may transfer part of this imprest to various paymasters of ships. These paymasters may receive similar advances at every home port they touch at. At sea they may meet other ships, and receive advances from the paymasters of those ships, or make advances to them. On arriving at a naval station abroad they may receive further advances from the naval accountant of the station, who has drawn his money, not from the Exchequer, but from the Treasury chest; or they may receive advances direct from the commissariat officer in charge of the Treasury chest. Proceeding to a foreign port they may draw bills of exchange on the Accountant-General of the navy, which may be presented for payment months after the money

raised upon them has been expended for the public service. Taking another example from army services, it will appear that the Exchequer imprests money to the Paymaster-General; the Paymaster-General issues it by way of imprest to army agents; these agents distribute it again on imprest to regimental paymasters, who again make advances to pay captains and others, who finally pay the men. In many cases, such as issues from the Treasury chests abroad, and bills of exchange, the expenditure of the imprest by the accounting officer precedes the issue of the money from the Exchequer. Again, monies are received at home and abroad by the sale of old stores, and for supplies to other departments, private individuals, &c., which are payable to the Exchequer as revenue; but inasmuch as it is for the public advantage that those monies should be made available for the public service at the earliest moment, they are applied in payment of public services on the spot, both as final payments and imprests, and the remittances to the Exchequer are made through the accounts rendered to the head department.

The Audit traces the whole of the pecuniary transactions.

It is evident that such a network of pecuniary transactions, the extent and variety of which are very imperfectly set forth in the limited examples given, could not be efficiently audited unless the whole of the monies received by the naval and military departments, from whatever source, were traced in all their ramifications, step by step, from their origin to their final record under their appropriate heads of service. An efficient system of account in the War Department and Admiralty enables the auditors to perform this duty with accuracy, and with the certainty that no pecuniary transaction in those great departments in connexion with the application of the grants of Parliament can escape their examination. It should be borne in mind that the audit of these accounts is conducted by the officers of the Audit Board, not at the Audit Office, but in the departments themselves in which the expenditure is incurred and the payments authorized, and upon the original books in which they are recorded; that it is not confined to the final expenditure chargeable against the votes, but embraces every pecuniary transaction of those departments; that the audit does not wait for the completion of an account made up after the close of the year, when the results of the expenditure as compared with the votes are known, but that it is concurrent with the daily progress of the transactions, which it follows in all their details day by day throughout the year. Thus every disputed question is discussed and settled before the final completion of the year's account. No naval or military sub-accountant can be relieved from an imprest charged

against him in the ledgers of the department until he has rendered satisfactory accounts and vouchers; and the Audit Board will not admit as a legal charge against the vote of Parliament any payment until evidence has been laid before them that the vouchers produced in support of it have been finally examined and passed by the examining authorities of the respective departments; so that the annual account certified by them is one of finally audited expenditure.

Detailed Estimates facilitate the Audit.

The duty of checking the accounts of the appropriation of the grants of Parliament for naval and military services has been facilitated by the improved and more detailed estimates upon which the monies have of late years been voted. A detailed classification of services in the annual estimates facilitates the classification of the payments, limits the discretion of the accountants, and leaves less room for differences of opinion as to the vote to which a payment is properly chargeable.

Vouchers produced to the Audit Board.

The documents upon which the auditors admit charges against the votes are those upon which the claims upon the department are allowed and ordered for payment, or upon which a sub-accountant is relieved from the debit standing against him. If the payment be for a supply of stores, the contractor's invoice, accompanied by evidence that the quantities have been brought on charge in the store accounts, and that the rates and value are correct, and in accordance with the terms of the contract, is produced to the auditors. If the payment be for a work or service performed, the claim of the party reported upon by the examining branch of the department, as to the authority for the service, the conformity of the claim with the conditions of the order or agreement, and certificates of the satisfactory execution of the work or service, are laid before them. The Act of Parliament relating to the Appropriation Audit (9 & 10 Vict. c. 92) enacts, that the Commissioners of Audit shall be allowed access to all books, orders, and other papers to which they may desire to make reference in the progress of their examination of the account books and vouchers. If, therefore, they desire to see any contract, charter-party or agreement, minute, correspondence, or other document which they may consider necessary for the purposes of their examination, such records are unreservedly laid open to them. In short, no evidence which can assist them in checking the appropriation of every payment to its proper vote is withheld from them.

No. XXXVIII.

No. 23.—NOTICE to CREDITOR to attend to receive DEBT under the Companies' Act, 1862 [Rule 28].

In the matter, &c.

SIR,

UPON application at my office, No. _____, Street, Middlesex, on or after the _____ instant, between the hours of ten and four o'clock, you may receive a cheque for the amount of your debt allowed in this matter, as under:—

Principal -	-	-	£
Interest -	-	-	-
Costs of proof -	-	-	-
Total -	-	-	£

If you cannot attend personally, the cheque will be delivered to your order, upon your filling up and signing the subjoined form.

The bills or securities (if any) held by you must be produced at the time of such application.

Dated this _____ day of _____ 186 _____
I am, &c.

R. P. H., Official Liquidator.

To Mr. S. T.

[FORM OF ORDER.]

SIR,

PLEASE to deliver to W. R. the cheque for £ referred to in the above letter as payable to me.

S. T.,

Creditor.

To Mr. R. P. H., Official Liquidator of the _____ Company.

No. XXXIX.

A Return showing the state of the several Funds called "The Suitors' Fund" and "The Suitors' Fee Fund," and the Charges upon the same Funds respectively for the year ending the 1st of October 1863, and for the year ending the 24th of November 1863.

THE SUITORS' FUND for the Year commencing 1st October 1862 to the 1st October 1863.

	CASH.			CASH.			CASH.			CASH.			STOCK.	
	£	s. d.		£	s. d.		£	s. d.		£	s. d.		£	s. d.
To Cash paid Accountant-General's Salary as Master - - - - -		577 10 0					By Balance on the 1st October 1862 - -	42,330 19 3		3,897,854 18 1				
" Pensions to retired Masters - - - - -	12,057	6 0					" Dividends received during the year - -	112,772 3 5						
" Compensation to Chief Clerks to Masters, pursuant to Act 15 & 16 Vict. c. 80. - - - - -	3,882	5 8					" Cash received for rent of Masters' Office, pursuant to Act 15 & 16 Vict. c. 80. - - - - -	490 0 0						
" Ditto to one Chief Clerk to Master, pursuant to Act 10 & 11 Vict. c. 97. - - - - -	118	11 5												
" Ditto to seven Junior Clerks to Masters - - - - -	2,854	8 8		19,400	1 9									
" Salaries of eleven Assistant Clerks to Registrars - - - - -	1,189	12 7												
" Pensions to five retired Registrars - - - - -	8,743	5 0												
" Pension to one Registrar's Clerk - - - - -	482	5 10												
" Pension to Registrar's Bagbearer - - - - -	188	1 5		10,603	4 10									
" Pension to one Clerk in Report Office - - - - -	-	-		90	9 11									
" Accountant-General's Salary - - - - -	868	2 6												
" Expenses of Office, office-keeper, water-rate, stationery, &c. - - - - -	434	1 5												
" Thirty-five Clerks' Salaries - - - - -	8,332	3 9												
" Pensions to five retired Clerks - - - - -	2,229	5 7		11,863	13 3									
Officers of the Lord Chancery's Court:														
" Courtkeeper - - - - -	86	12 8												
" Persons to keep order - - - - -	231	0 0												
" Tipstaff - - - - -	192	18 4												
" Clerk in Secretary's Office - - - - -	96	9 2		607	0 2									
Officers of the Lords Justices' Court:														
" Secretaries - - - - -	771	13 4												
" Ushers - - - - -	482	6 2												
" Trainbearers - - - - -	192	18 4												
" Persons to keep order - - - - -	154	6 8		1,601	4 6									
Officers of the Vice-Chancellor Kindersley's Court:														
" Secretary - - - - -	288	15 0												
" Usher - - - - -	192	18 4												
" Trainbearer - - - - -	96	9 2												
" Person to keep order - - - - -	77	3 4		655	5 10									
Officers of the Vice-Chancellor Stuart's Court:														
" Secretary - - - - -	289	7 6												
" Usher - - - - -	192	18 4												
" Trainbearer - - - - -	96	9 2												
" Persons to keep order - - - - -	154	6 8		733	1 8									
Officers of the Vice-Chancellor Wood's Court:														
" Secretary - - - - -	289	7 6												
" Usher - - - - -	192	18 4												
" Trainbearer - - - - -	96	9 2												
" Persons to keep order - - - - -	154	3 4		732	18 4									
" Assistant Junior Clerks to Judges - - - - -	-	-		1,167	3 1									
" Surveyor's Salary - - - - -	-	-		77	0 0									
" Solicitor to Suitors, in lieu of costs - - - - -	1,200	0 0												
" Ditto, additional Salary for duties imposed by Act 23 & 24 Vict. c. 149 - - - - -	288	15 0												
" Ditto for Insurance and other Disbursements - - - - -	46	6 8		1,535	1 8									
Compensation to Officers of the Court of Exchequer - - - - -	-	-		3,760	6 11									
" Ditto to an Officer of the Subpoena Office, Doorkeeper and Crier of the Court, Deputy Secretary of Decrees and Injunctions, and one Clerk of the late Clerks of Accounts Office - - - - -	-	-		1,121	19 11									
" Expenses of Courts, and of Registrars' Offices and Report and other Offices, for arranging, indexing, and removing Records and for rent, repairs, rates, stationery, coals, candles, gas, &c. - - - - -	-	-		3,625	19 1									
Total Payments - - - - -	-	-		57,864	10 11									
Surplus Interest carried over to the "Suitors' Fee Fund Account," as directed by the Act 15 & 16 Vict. c. 87. s. 53. - - - - -	-	-		80,958	6 5		Total Payments and Surplus Interest carried over to the Suitors' Fee Fund Account - - - - -	138,622 17 4						
	£	138,622 17 4					Stock purchased with Suitors' cash - - - - -	-		214,477 4 4				
							Balance, 1st October 1863 - - - - -	£	16,970 5 4	4,112,332 2 5				

ACCOUNT OF MONIES PLACED OUT TO PROVIDE FOR THE OFFICERS OF THE HIGH COURT OF CHANCERY from the 24th November 1862 to the 25th November 1863.

	CASH.			STOCK.			CASH.			STOCK.	
	£	s. d.		£	s. d.		£	s. d.		£	s. d.
Interest carried over to Suitors' Fee Fund Account, under 15 & 16 Vict. c. 87. s. 54. - - - - -	8,732	3 1					Balance on 24th November 1862 - - - - -	2,902 6 10		201,028 2 3	
Balance, 24th November 1863 - - - - -	-	-		201,028	2 3		Dividends received during the year - - - - -	5,829 16 3		-	
	£	8,732 3 1		201,028	2 3			£	8,732 3 1	201,028 2 3	

THE SUITORS' FEE FUND ACCOUNT from the 24th November 1862 to the 25th November 1863.

	£	s.	d.	£	s.	d.		£	s.	d.	
To Cash paid Officers of the Courts of the Lord Chancellor, Master of the Rolls, and Vice-Chancellors, pursuant to Act 15 & 16 Vict. c. 37. —	-	-	-	0,053	4	9	By Cash paid in by the Clerk of the Crown, Clerk of Patents, and Purchase, on account of Fees formerly payable to the Lord Chancellor	-	632	6	7
" Salaries to Nine Senior Clerks to the Master of the Rolls and the Vice-Chancellors	13,000	0	0				" brought over from various Causes, Matters, and Accounts, in lieu of Fees formerly paid at the Taxing Masters	-	11,409	17	0
" Ditto to Sixteen Junior Clerks to ditto	5,600	0	0				" brought over on Account of Per-centages on Income from Matters and Accounts in Lunacy	-	5,820	10	0
" Rent, &c. of Chambers	1,118	7	5	19,718	7	5	" paid in by Clerks of Enrolments	-	7,566	9	7
" Compensation to Two Masters at 725 <i>l.</i> per annum	1,450	0	0				" paid in by Clerk of Petty Bag Office	-	384	16	8
" Ditto to One Chief Clerk to Master	1,000	0	0	2,450	0	0	" paid in for Poundage under the Winding-up Act	-	105	16	7
" Salaries to Eleven Registrars	16,988	6	4				" paid in by one of the Clerks to the Examiners	-	3	0	0
" Allowances for writing to Registrars under 3 & 4 Will. 4. c. 94. s. 48. and 5 Vict. c. 5. s. 63.	1,097	11	1				" paid in by the Commissioners of Inland Revenue, in respect of Money received by them for Chancery Fee Fund Stamps	-	70,005	3	4
" Salaries to Registrars' Clerks	6,908	3	1				" paid in by the Solicitor to the Suitors' Fund, received by him in respect of Rent of Chambers	-	86	12	6
" Bagbearers to Registrars	300	0	0				By Interest brought over from "Money arising from sale of the Six Clerks' Office"	-	65	18	4
" Salaries to two Clerks of Entries	635	0	0	25,929	0	6	" Surplus Interest brought over from Suitors' Funds under 15 & 16 Vict. c. 87. s. 53.	-	80,958	6	5
" Salary attached to the Office of Master of Reports and Entries, under 18 & 19 Vict. c. 134.	-	-	-	1,000	0	0	" Interest brought over from "Monies placed out to provide," &c., under 15 & 16 Vict. c. 87. s. 54.	-	8,732	3	1
" Salaries to two Examiners	3,000	0	0				" Cash paid in by the Accountant-General for Brokerage, under 15 & 16 Vict. c. 87. s. 18.	-	4,797	8	6
" Ditto to two Clerks to Examiners	740	0	0	3,740	0	0	Total Receipts	-	190,667	8	7
Salaries, &c. under 5 & 6 Vict. c. 84., and Lunacy Regulation Act, 1853 and 1862.—							Add Balance, 24th November 1862	-	70,272	9	6
To Cash paid Two Masters in Lunacy, Salaries	4,500	0	0						260,939	18	1
" Ditto Travelling Expenses	663	18	0				Deduct Total Payments for the Year	-	161,687	9	1
" Ditto Expenses of Office	343	3	3				Balance of Cash, 24th November 1863	£	99,252	9	0
" Ditto Salaries to nine Clerks	3,500	0	0								
" Registrar in Lunacy, Salary	800	0	0								
" " Salaries to four Clerks	930	0	0								
" Pension to a late Master in Lunacy, at 1,000 <i>l.</i> a year	1,260	17	5								
" Compensation to a late Commissioner in Lunacy	150	0	0								
" Visitors of Lunatics Salaries	4,828	16	0								
" Ditto Travelling Expenses	1,790	14	0								
" Ditto Secretary	300	0	0								
" Ditto four Clerks to Visitors	755	16	10								
" Ditto Pensions to late Visitors	550	19	1								
" Ditto Expenses of Office	281	10	3								
" Rent of Premises for Masters in Lunacy and Visitors of Lunatics	275	0	0	20,930	14	10					
" Compensation to late Clerks of Affidavits	-	-	-	1,300	0	0					
Salaries, &c. under 5 & 6 Vict. c. 103.—											
To Cash paid Seven Taxing Masters Salaries	15,000	0	0								
" Fourteen Clerks to Taxing Masters Salaries	3,500	0	0								
" Messenger to Taxing Masters	200	0	0								
" Rent of Taxing Masters' Offices	800	0	0								
" Clerk of Enrolments, Salary	1,200	0	0								
" Four Clerks to Clerk of Enrolments, Salaries	845	18	6								
" Three Clerks of Records and Writs, Salaries	4,200	0	0								
" Fifteen Clerks to ditto Salaries	3,750	0	0								
" Office Keeper and Messenger to ditto	280	0	0	29,775	18	6					
" Clerks and Messengers in Report Office, under 18 & 19 Vict. c. 134.	-	-	-	1,307	3	10					
" Salaries to two Clerks of the Petty Bag Office, under 12 & 13 Vict. c. 110.	-	-	-	800	0	0					
" Accountant General in lieu of brokerage, under 15 & 16 Vict. c. 87. s. 19.	-	-	-	2,700	0	0					
" Increased Salary to some of the Accountant General's Clerks, under 15 & 16 Vict. c. 87. s. 39.	-	-	-	2,212	10	0					
" Compensation to late Clerks of Accounts, under 15 & 16 Vict. c. 87.	-	-	-	1,987	10	0					
" Office-keeper at the late Masters' Offices, for the care of the Deeds, Books, Documents, and Papers heretofore under the custody of the Masters	-	-	-	80	0	0					
Compensation for loss of Office and Profits, under 5 & 6 Vict. c. 103.—											
" paid eighteen Sworn Clerks and Messenger	26,359	7	10								
" One Agent to ditto	923	3	4	27,282	11	2					
" Copy Money for writing and copying in the Offices of the Clerk of Enrolments, the Clerks of Records and Writs, the Registrar in Lunacy, and the Clerks of Entries, and for printing Affidavits	-	-	-	9,426	8	8					
" under Order 20th Nov. 1862, in Coulson v. Coulson, to C. J. Hampton in respect of a payment in, by one of the Clerks to the Examiners	-	-	-	3	0	0					
" Expenses of the various Courts and Offices for Stationery, Coals, Candles, Gas, Servants' Wages, Rates and Taxes, and for Furniture, &c.	-	-	-	4,090	19	5					
Total Payments	-	-	-	£ 161,687	9	1					

	£	s.	d.
Deduct Total Payments for the same Period	161,687	9	1
Excess of Income over Expenditure for the year ending 25th November 1863	356	16	3

In comparing the Income of the Suitors' Fee Fund Account with the Expenditure for the year to which this account relates, the sum of 25,698*l.* 8*s.* 3*d.* brought over from the Suitors' Funds in respect of surplus interest, and the sums of 21*l.* 18*s.* 2*d.*, and 2,902*l.* 16*s.* 10*d.* brought over for interest from "Money arising from sale of the Six Clerks' Office," and "Monies placed out to provide, &c." being respectively parts of the above sums of 80,958*l.* 6*s.* 5*d.*, 8,732*l.* 3*s.* 1*d.*, and 65*l.* 18*s.* 4*d.*, and making together 28,623*l.* 3*s.* 3*d.*, must be deducted from the above total of receipts, they being in fact receipts in respect of the Income of the previous year. With that deduction the Income for the year ending 25th November 1863 will be—

In comparing the Income of the Suitors' Fee Fund Account with the Expenditure for the year to which this account relates, the sum of 25,698*l.* 8*s.* 3*d.* brought over from the Suitors' Funds in respect of surplus interest, and the sums of 21*l.* 18*s.* 2*d.* and 2,902*l.* 1*s.* 10*d.* brought over for interest from "Money arising from sale of the Six Clerks' Office," and "Monies placed out to provide, &c.," being respectively parts of the above sums of 80,958*l.* 6*s.* 5*d.*, 8,732*l.* 3*s.* 1*d.*, and 65*l.* 18*s.* 4*d.*, and making together 28,628*l.* 2*s.* 8*d.*, must be deducted from the above total of receipts, they being in fact receipts in respect of the Income of the previous year. With that deduction the Income for the year ending 25th November 1863 will be—

	£	s.	d.
162,044	5	4	
Deduct Total Payments for the same Period	161,687	9	1
Excess of Income over Expenditure for the year ending 25th November 1863	356	16	3

LONDON:

Printed by GEORGE E. BYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.
For Her Majesty's Stationery Office.

HIGH COURT OF ADMIRALTY IN IRELAND COMMISSION.

R E P O R T

OF

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO

THE HIGH COURT OF ADMIRALTY
IN IRELAND.

Presented to both Houses of Parliament by Command of Her Majesty.



LONDON:

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1864.

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COMMISSION.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :

To Our right trusty and well-beloved Councillor John David FitzGerald, one of the Justices of Our Court of Queen's Bench in Ireland, Our trusty and well-beloved Mountifort Longfield, Esquire, one of the Judges of the Landed Estates Court in Ireland, Our trusty and well-beloved Sir William Atherton, Knight, Our Attorney General for England,* Our trusty and well-beloved Sir Robert Joseph Phillimore, Knight, Our Advocate-General for England, Our trusty and well-beloved Sir Thomas Staples, Baronet, Our Advocate-General for Ireland, Our right trusty and well-beloved Councillor Thomas O'Hagan, Our Attorney General for Ireland, Our trusty and well-beloved Robert Porrett Collier, Esquire, one of Our Counsel learned in the Law,† Our trusty and well-beloved Robert Bayly Follett, Esquire, Our trusty and well-beloved Henry Cadogan Rothery, Esquire, and Our trusty and well-beloved John Hazlett, Esquire, greeting :

Whereas We have deemed it expedient that a Commission should issue to inquire into the Constitution, Establishment, Officers, Practice, Procedure, and Fees of the High Court of Admiralty in Ireland :

Know ye, therefore, that We, reposing great Trust and Confidence in your Zeal, Discretion, and Integrity, have authorized and appointed, and do by these Presents authorize and appoint, you the said John David FitzGerald, Mountifort Longfield, Sir William Atherton, Sir Robert Joseph Phillimore, Sir Thomas Staples, Thomas O'Hagan, Robert Porrett Collier, Robert Bayly Follett, Henry Cadogan Rothery, and John Hazlett, or any Two or more of you, to make a full and diligent Inquiry into the Constitution, Establishment, Officers, Practice, Procedure, and Fees of the said Court, and to report upon the same; and for the better Discovery of the Truth in the premises, We do by these Presents give and grant to you, or any Two or more of you, full Power and Authority to call before you, or any Two or more of you, such and so many of the Officers and Clerks of Our said Court and other Courts and all such other Persons as you shall judge necessary, by whom you may be the better informed of the Truth in the Premises, and to inquire of the Premises by all other lawful Ways and Means whatsoever.

And We do hereby give and grant unto you, or any Two or more of you, full Power and Authority to cause all or any of the Officers and Clerks of any of Our said Courts to bring and produce before you, or any Two or more of you, all Rolls, Records, Orders, Books, Papers, or other Writings belonging to any of Our said Courts, or to any of the Officers within the same.

And Our further Will and Pleasure is, that you do within Eight Calendar Months after the Date of this Our Commission, or as soon as the same can conveniently be done (using all Diligence), certify to Us in Our Court of Chancery in England, under the Hands and Seals of you or any Seven or more of you what you shall have done in the Premises.

* Sir William Atherton resigned the office of Attorney General from ill health in September 1863, and died 22nd of January 1864.

† Appointed Her Majesty's Solicitor General for England in October 1863.

And We further will and command that this Our Commission shall continue in full Force and Virtue, and that you Our said Commissioners, or any Two or more of you, shall and may from Time to Time proceed in the Execution thereof, and of every Matter and Thing therein contained, although the same be not continued from Time to Time by Adjournment.

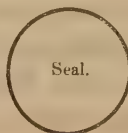
And We hereby command all and singular Our Justices of the Peace, Sheriffs, Mayors, Bailiffs, Constables, Officers, Ministers, and all other Our loving Subjects whatsoever, as well within Liberties as without, that they be assistant to you, and each of you, in the Execution of these Presents.

And for your further Assistance in the Execution of these Presents, We have made choice of Our trusty and well-beloved William Neilson Hancock, Doctor of Laws, and Our trusty and well-beloved Henry Robert Vaughan Johnson, Esquire, to be Secretaries to this Our Commission, and to attend you, whose Services and Assistance We require you to use from Time to Time as Occasion may require.

In Witness whereof We have caused these Our Letters to be made Patent

Witness Ourselves at Westminster, the Twenty-first Day of September, in the Twenty-seventh Year of Our Reign.

By Warrant under the Queen's Sign Manual.



C. ROMILLY.

HIGH COURT OF ADMIRALTY IN IRELAND COMMISSION.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN HER HIGH COURT OF CHANCERY.

YOUR Majesty having been pleased to issue a Commission authorizing and appointing us "to make full and diligent inquiry into the Constitution, Establishment, Officers, Practice, Procedure, and Fees of the High Court of Admiralty in Ireland, and to report upon the same":—We your Majesty's Commissioners, in the execution of the duties thus imposed upon us, have proceeded to examine and consider the subjects on which we are desired to report.

I.—*Admiralty Jurisdiction in Ireland prior to the Restoration.*

The Jurisdiction of the Court of Admiralty had its origin in Ireland, as in England, in the authority of the Admiral, of whom the Judge was the Deputy.

In very early times there would appear to have been from time to time Admirals of Ireland distinct from the Admirals of England. Thus it appears by the *Liber Munerum Publicorum Hiberniæ*,* that as early as the year 1414, in the 2nd year of the reign of King Henry V., Sir John Keighly and John Brygge were appointed "Admirals of Ireland jointly and severally in all parts throughout Ireland, as fully as the Admirals of England used to enjoy, to hear and determine all maritime affairs;" and that in the same year Robert Rowland was appointed Marshal of the Admiralty of Ireland for life.† The office of Admiral of Ireland came afterwards to be usually held along with the office of Admiral or Lord High Admiral of England, especially after the reign of King Henry the Sixth, as appears by the list which we annex in the Appendix,‡ extracted from the Glossarium of Spelman. At the same time instances occur, as in the case of Lord James Butler in 1535, and Sir Beverley Newcomen in 1618, of the office of Admiral of Ireland§ being held separate and distinct from the office of Lord High Admiral of England. In the *Liber Munerum Publicorum Hiberniæ*, a Judge of the Admiralty of Ireland is mentioned as early as 1591, in a patent of the 33rd year of the reign of Queen Elizabeth,|| and the earliest Statute of the Irish Parliament relating to the Admiralty is the 11th, 12th, and 13th of James I. By that Statute a criminal jurisdiction was conferred on the Admiral in Ireland similar to that conferred on the Admiral in England by Statute of Henry VIII.; and the Statute of James I., amongst other things, provided that the Commissions for exercising the criminal jurisdiction "should be under the Great Seal of Ireland directed to the Admiral or Admirals, or his " or their Lieutenant-General, Deputie or Deputies, and three or four other substantial " persons, to be nominated or appointed by the Lord Chancellor of Ireland."

Sir Leoline Jenkins notices¶ a Court of Appeals in Admiralty cases in Dublin, "during the period of two Judges successively, the last of whom died about the year " 1640." He objected to the revival of this Court at the Restoration, but he recommended that in causes of a certain value the decision of the Provincial Courts should be final, that in causes above that value there should be an appeal to Dublin, and that only in causes of a still higher value, to be fixed by His Royal Highness, should there be an appeal from Dublin to the High Court of Admiralty at London.

* Report of Record Commissioners 1852, pp. 221–222. Vide Extracts, Appendix G., pp. 74, 80.

† The patents of these officers are of Record in the Rolls in Ireland.

‡ Vide Appendix G., p. 71.

§ Appendix G., p. 74. The patents of these officers are of Record in the Rolls in Ireland.

|| Vide Appendix G., p. 74.

¶ Life of Sir Leoline Jenkins, by William Wynne, Esq., vol. II., p. 675. Vide Extract Appendix G., p. 80.

II.—*Admiralty Courts in Ireland from 1660 to 1782.*

The Records of the Court of Admiralty of Ireland preserved in the Court do not extend further back than 1747, those of earlier date having been lost or destroyed; we have, therefore, caused to be extracted from the Muniment Books of the High Court of Admiralty of England, which commence in 1660, a list* of the Patents issued for the appointment of Vice Admirals, Judges, and other officers exercising Admiralty Jurisdiction in Ireland between the years 1660 and 1782. From this list it appears, that during that period there were usually four Vice Admirals in Ireland; one for each of the four provinces, Leinster, Munster, Ulster, and Connaught. During the same period no appointment appears of a Judge in Connaught, only one Judge appears to have been appointed for the Court of Admiralty of the province of Leinster alone, only two for the Vice Admiralty Court of the province of Ulster, and none later than 1666. There were five Judges appointed for the Vice Admiralty Court of the province of Munster, and one of these as late as 1751. The list contains no appointments of any Officers of the Admiralty in Ireland from 1670 to 1685. In 1673 James Duke of York ceased to be Lord High Admiral of England,† being disqualified by the Test Act; but he continued Lord High Admiral of Ireland alone until he ascended the Throne in 1685. That he made appointments as Lord High Admiral of Ireland alone, appears from a Warrant from him, dated 14 April 1677, to Sir William Petty, Judge of the High Court of Admiralty of Ireland, to prepare letters patent for Sir Robert Southwell to be Vice-Admiral of the Province of Munster; and from the Patent of Sir Robert Southwell, dated 21 April 1677, in pursuance of the Warrant which is of Record in the Rolls in Ireland,‡ and which issued from the High Court of Admiralty of Ireland. One Judge was appointed in 1700 Judge of the Vice Admiralty of the four provinces, and from 1670 to 1782 fifteen appointments were made of Judges of the Admiralty of the kingdom of Ireland. It appears, therefore, that during this period the Admiralty Courts were early reduced to two, and finally to one.

The Judges were appointed by the Lord High Admirals of England and Ireland,—the Duke of York, Prince George of Denmark, and Thomas Earl of Pembroke,—or by the Lords Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland; and in all the Patents between 1660 and 1782 of Vice Admirals and Judges, extracted from the Muniment Books of the High Court of Admiralty of England, the right of appeal to the High Court of Admiralty of England was reserved. Other Officers, such as Registrars, Marshals, and Advocates of the Admiralty Courts in Ireland, were appointed in like manner by the Lord High Admirals and Lords Commissioners of the Admiralty.

The term High Court of Admiralty of Ireland occurs in the Warrant addressed to Sir William Petty as Judge of the High Court of Admiralty of Ireland in 1677, and in the Patent to Sir Robert Southwell, issued in pursuance of that Warrant§; and it further appears that Dr. Baillie, who was appointed Judge of the Court of Admiralty in Ireland in 1745, and to whom Warrants to try Prize causes were issued in 1745,|| claimed at one time to be Judge of the High Court of Admiralty of Ireland, and to exercise jurisdiction as such,¶ and to be so styled in the Records of the Court. But it also appears** that on his attempting to exercise Admiralty jurisdiction within the Province of Munster he was reprimanded by the Lords of the Admiralty, and was ordered to, and did, withdraw all the “Deputations” which he had issued not only in Munster but in other parts of Ireland beyond the Province of Leinster. The Lords Commissioners of the Admiralty in England, however, and the Officers of the English Court of Admiralty, seem to have insisted in all their proceedings on treating the Admiralty Court at Dublin as a Vice Admiralty and Subordinate Court, as the Judges of the Court at Dublin were appointed by the Lords High Admiral or Lords of the Admiralty during pleasure, and the appeal to the English Court was always reserved in the Patents.

It should, however, be remembered that during the period of which we have just treated, the Parliament of England asserted a right to make laws to bind Ireland, and the subordination of the Judicial tribunals of Ireland to the English Courts was also

* *Vide* Appendix G., p. 75.

† *Vide* Brown's Civil and Admiralty Law, vol. II. p. 26. *Life of Sir Leoline Jenkins*, vol. II. p. 705.

‡ *Vide* Appendix G., p. 80.

§ *Vide* Appendix G., p. 80.

|| *Vide* Appendix G., p. 81.

¶ *Vide* Records of High Court of Admiralty of Ireland, 1748.

** *Vide* Correspondence between Judge Baillie and Lords of the Admiralty in 1745. Appendix G., p. 81, *et seq.*

alleged, and in some instances maintained. The controversy on these subjects produced the Act 6 Geo. I. (E.), which in effect declared the dependent and subordinate position of Ireland and its Judicial tribunals. In 1780 the Parliament of Ireland, in an address to the Crown, declared its rights, and in 1782 the Legislative and Judicial independence of the kingdom was formally acknowledged, and the Act of 6 Geo. I. was repealed by the Parliament of England.

III.—*Present Constitution of the High Court of Admiralty of Ireland.*

In the Session of Parliament held in the year 1783–4, an Act was passed by the Irish Legislature (23 & 24 Geo. III. cap. 14, Irish), intituled “An Act for regulating “the High Court of Admiralty” in that kingdom. The Act recites “that it is “expedient to regulate the High Court of Admiralty in this kingdom, and the mode “of appealing therefrom;” and it provides for the appointment by the Crown under the Great Seal of Ireland, of the Judge of the High Court of Admiralty of Ireland, with full power and authority to hear and determine all and all manner of civil, maritime, and other causes to the Jurisdiction of the said Court belonging, or which of right belong thereto, according to the laws and statutes of the realm. The Judge was to hold office during good behaviour, and an Appeal is given to the High Court of Delegates in Chancery in Ireland, to be appointed under the Great Seal of Ireland. The Act of Union (39 & 40 Geo. III. cap. 67), by its Eighth Article declared “that from “and after the Union there shall remain in Ireland an Instance Court of Admiralty for the “determination of causes civil and maritime only,” and “that the Appeal from sentences “of the said Court shall be to His Majesty’s Delegates in the Court of Chancery in “Ireland.” The present constitution of the Court is mainly regulated by the recited Statutes.

IV.—*Report on Court of Admiralty of Ireland in 1829, by the Commissioners on Courts of Justice.*

In the year 1828 the High Court of Admiralty of Ireland became the subject of an investigation by the Commissioners appointed “to enquire into the Duties, Salaries, “and Emoluments of the Officers, Clerks, and Ministers of Justice in all Temporal “and Ecclesiastical Courts in Ireland;” and their Eighteenth Report, which bears date the 17th of January 1829, relates exclusively to the Court of Admiralty. That Report contains a very careful and elaborate account of the Jurisdiction, Practice, and Procedure of the Irish Court, and of the Duties and Emoluments of its Officers; and a comparison thereof with the High Court of Admiralty of England. We have caused such extracts therefrom as appeared to have a direct bearing upon our present enquiry to be printed in the Appendix to this Report.* The Report of the Commissioners shows that the Jurisdiction of the two Courts at that time was in all essential respects the same. The Irish Court, however, claimed to exercise, and did in fact exercise, Jurisdiction in suits by Material Men, as they are called, for necessaries supplied to ships†—a Jurisdiction of which the Court in England had long before been deprived by the jealousy of the Common Law Courts: (*vide* the *Neptune*, 3 Knapp’s Reports, p. 94.) The practice, however, of the two Courts was even then in many important respects different; the Commissioners in their Report of 1829 offered a variety of suggestions for improving the practice of the Court in Ireland, especially with a view to assimilation with the practice of the Court in England.

The Commissioners also found that the Fees of the Court had been increased by the officers, and new Fees added, and that many of these changes had been made without authority; and they recommended a new scale of Fees to be established for the different officers. In consequence of recommendations in other Reports of the same Commissioners, we find that reduced scales of Fees were established by Statute‡ for the Court of Chancery in Ireland; and provision was made for any loss the officers might sustain by such reduction. In the Superior Courts of Common Law in Ireland the principal officers were placed on salary,§ and the fees payable to them converted into stamps,|| and compensation provided for any loss the officers might sustain. But in the case of the Court of Admiralty no step was taken by the Legislature to enable the recommendations of the Commissioners either as to Fees or Practice to be effectually carried out.

* Appendix B, p. 45.

† Appendix B., p. 47.

‡ *Vide* Stat. 4. Geo. IV. c. 61.

§ *Vide* Stat. 1 & 2 Geo. IV. c. 53.

|| *Vide* Stat. 1 & 2 Geo. IV. c. 112.

V.—*Exercise of Prize Jurisdiction by the Irish Admiralty Courts.*

As we have mentioned the Report of the Commissioners of 1829 with commendation, it is right that we should call attention to one error, into which they appear to have fallen, relative to the exercise of Prize Jurisdiction by the Courts of Admiralty in Ireland. The Commissioners say in their Report: "The Jurisdiction in Prize Cases has never (we believe) been extended to the Court of Admiralty of Ireland. Claims have been set up, and attempts made, with a view of assuming the cognizance of Prize causes; but no legitimate exercise of such a jurisdiction as possessed by the Irish Court of Admiralty can be satisfactorily shown."* If by this it is merely meant to say that the High Court of Admiralty of Ireland since 1782 has never exercised any Prize Jurisdiction, we believe the statement to be correct; but if it is meant to convey that the Admiralty Courts in Ireland have never at any time legally exercised such a jurisdiction, then we believe the statement not to be well founded. On the outbreak of hostilities it is the practice of the Crown to issue a commission to the Lord High Admiral, or to the Lords Commissioners of the Admiralty, as the case may be, authorizing them "to will and require the High Court of Admiralty of England," and such other Courts of Admiralty as they may think fit, "to take cognizance of and judiciously to proceed upon all and all manner of captures, seizures, prizes, and reprisals, &c." The Lord High Admiral or the Lords of the Admiralty thereupon issue warrants to the High Court of Admiralty of England, and to such other Courts of Admiralty or Vice-Admiralty as they may think fit, authorizing them to adjudicate in Prize cases. This authority lasts only for the war for which it is specially issued. Now, on reference to the Records of the Council Office, we find that on the 4th of January 1666, when the Duke of York was "Lord High Admiral of England and Ireland, &c.," an Order in Council† was issued establishing certain rules for the guidance of "the Courts of Admiralty in the several provinces in Ireland," in the exercise of Prize Jurisdiction, which seems to have been conferred upon them in the preceding year; and in the same Order in Council mention is made of three French Prizes that had been condemned about that time in the Vice Admiralty Court of Munster. We find also, from an examination of the Records of the Admiralty, that in the wars with Spain‡ and France of 1744, and in the war with France of 1756, and 1778, warrants to try Prize causes were granted to the Admiralty Court at Dublin, but it does not appear that warrants were granted to the Vice Admiralty Court of Munster. We do not, however, find that any such authority was given to the Courts of Ireland on the occasion of any of the other wars which occurred in the 18th century, and certainly none since 1782. If, then, it is meant that no warrant to exercise Prize Jurisdiction has ever been granted to the High Court of Admiralty of Ireland since 1782, the statement is no doubt correct; but if it is meant that such Jurisdiction has never been conferred upon any of the Irish Admiralty Courts, or could not be conferred by warrant from the Crown, the statement is not in accordance with the result of our inquiries. Dr. Browne, in his work on Civil and Admiralty Law, vol. ii. p. 32, says: "Of late years no Prize Commission has been given to the Judge of the Admiralty in Ireland, though he appears constantly to have possessed such an authority, while it was a Vice-Admiralty Court, *i.e.* till the year 1782."

VI.—*Changes effected in the High Court of Admiralty of England.*

We now propose to state the principal changes that have been effected in the High Court of Admiralty of England since the Report of the Commissioners in 1829.

(1.) And first as to the Jurisdiction.

It appears that the first alteration which was made in the jurisdiction of the English Court, was in the year 1840, when the Act of the 3 & 4 Vict. cap. 65, was passed. That Act gave the Court power to entertain claims for towage, for necessities supplied to foreign ships, and in certain cases claims by the owners and mortgagees of ships; but the most important provision of the Act was one which enabled the Court to entertain questions arising within the body of a county, a jurisdiction of which it had been deprived by the Courts of Common Law. In 1861 the Act of the 24th Vict. cap. 10. was passed, which still further extended the jurisdiction of the English Court, giving it for the first time authority to adjudicate on claims for damage to cargo, and on all questions arising between co-owners of ships, and enlarging its existing jurisdiction over claims for salvage of life, claims by masters of ships, and in various other matters.

* Appendix B., p. 46.

† *Vide* Copy in Appendix G., p. 79.

‡ *Vide* Copy of Warrant in Appendix G., p. 81.

In the meantime, however, the jurisdiction formerly exercised by the Court in small salvage cases and suits for seamen's wages was transferred to other tribunals by the Merchant Shipping Act of 1854, and other statutes.

(2.) As to the Practice.

The Act of the 3d & 4th of Vict. cap. 65. gave the Judge power to make Rules and Orders for regulating the Practice of the Court; but it was not until the year 1856 that any important changes were effected in the Practice. On the 1st of January in that year certain Rules came into operation, having for their object to simplify the mode of pleading and the examination of witnesses, and at the same time to provide for the printing of the pleadings and written proofs previous to the hearing. In 1859 an Act was passed, the 22d & 23d Vict. cap. 6., throwing open the High Court of Admiralty of England to the whole legal profession; and concurrently therewith new Rules were issued, which came into operation on the 1st of January 1860, and which entirely altered the whole previous practice of the Court.

(3.) As to the Fees and Payment of the Officers.

Concurrently with the first extension of the jurisdiction of the English Court in 1840 an Act was passed, the 3d & 4th Vict. cap. 66., which provided for the formation of a general Fee Fund, and for the payment of the Officers by fixed salaries. In 1854 the Act of the 17th & 18th Vict. cap. 78. was passed, providing for the collection of the Fees by means of stamps; and with a view to carry out the provisions of that Act, new and more simple Tables of Fees were prepared, which came into operation on the 1st of January 1855.

The above are the more important changes that have been made in the Jurisdiction, Practice, and Fees of the High Court of Admiralty of England; and the effect has been greatly to improve the Practice of the Court, and to expedite the hearing of causes. These changes have also been followed by a very considerable increase in the business of the Court. Thus, it appears from returns which we received that the causes of every description have increased from 237 in the year 1841 to 485 in the year 1863. The number of Reports from the Registrar have increased from 2 in the year 1841 to 38 in the year 1863. The number of Bills of Costs taxed have increased from 58 in the year 1841 to 230 in the year 1863. The number of Causes of Damage from collision increased from 20 in the year 1840 to 49 in the year 1841, and to 199 in the year 1863. And the Official Fees received, notwithstanding two reductions in the scale of Fees, increased from 2,447*l.* in the year 1841-1842 to 9,508*l.* in the year 1862-1863.

VII.—*Present State of the High Court of Admiralty of Ireland.*

As such extensive changes had been introduced in the English Court of Admiralty, it became necessary to ascertain whether similar changes had been introduced in Ireland, and what are now the principal differences in Practice and Procedure between the Courts of the two countries. We accordingly employed Dr. Townsend, an advocate of the Irish Court, to prepare for us a statement on this subject. From the statement he has prepared, and which we annex in the Appendix,* it appears that no changes similar to those introduced in England have taken place in the Admiralty Court in Ireland. The Jurisdiction of course could not be altered except by Statute, and no such Statute has been passed. As to the Practice, it would seem that the Judge was of opinion that, without some such statutory power as was given to the Judge of the English Court by the 3 & 4 Vict. cap. 65., he had no authority to make any Rules which should be binding upon the practitioners and suitors in the Court, and the only changes therefore that have been made are some which are founded upon the Rules which came into operation in the High Court of Admiralty of England on the 1st of January 1856, and which were introduced by the present Judge with the concurrence of the practitioners.† Substantially, therefore, the Jurisdiction and Practice of the High Court of Admiralty of Ireland are the same as they are described in the Report of the Commissioners on Courts of Justice in 1829; and as we have printed in our Appendix extracts from that Report,‡ and annexed Dr. Townsend's statement, we abstain from entering into any more detailed account of the existing Jurisdiction and Practice of the Irish Court.

* Appendix A., p. 1.

† Appendix A., p. 37, Answers, IV. 2.

‡ Appendix B., p. 45.

VIII.—*Fees of the High Court of Admiralty of Ireland.*

It appears from the Returns made to us* by the Officers of the Court that the Fees now received amount in the aggregate to 944*l.* a year, and that the scale of fees has undergone little alteration since 1829, the date of the Report, to which we have referred of the Commissioners on Courts of Justice in Ireland. As we recommend that the officers should in future be paid by salary so as to have no interest in the amount of the Fees, and that full power should be given to the Lord Chancellor of Ireland, with the assent of the Lords Commissioners of Your Majesty's Treasury, to alter or abolish Fees, the subject of Fees does not appear to call for any further observation on our part.

IX.—*Amount of Business transacted by the High Court of Admiralty of Ireland.*

The next subject which engaged our attention was the amount of business transacted by the Court. To ascertain this we called upon the present Registrar of the Court for a Return of the business for the last five years. The Return which he has furnished will be found in Appendix D.† to this Report, but it is not by any means so full or satisfactory as we could have wished. For reasons which have not been explained, the Registrar is unable to afford any information as to the nature of the causes instituted in any year but the last. The Return, however, shows that the number of causes instituted in the Court varied from 90 in 1859 to 55 in the past year; that there were 42 appearances in causes in the year 1859, as against 24 in the year 1863; and that there were in 1859, 28 judgments, of which 15 were in causes by default, or unopposed causes, as against 12, of which 1 was in a default cause, in 1863; or, in other words, that there were only 13 judgments delivered by the Court in opposed causes in 1859, and only 11 in 1863; and that the greatest number of judgments in opposed causes, in any of the last five years was in 1860, when there were 18. This is a very small amount of business to be transacted by a separate Court, and it became a question whether it would not be proper to attach the exercise of the Jurisdiction to one of the Common Law Courts. It appears to us, however, that the arrangements to be made for the future should depend, not on the amount of business which has hitherto been transacted in the Court, but on the amount of business which may be expected to follow on the adoption of the changes which we have recommended. Similar changes in England have resulted in an increase of business in 1863, between four and five times the amount transacted before those changes were adopted. Having regard to this consideration, as well as to the very different character of the proceedings in a Court of Common Law from those in a Court of Admiralty, to the expediency of having a proper staff of officers always on the spot, and readily accessible to the public and the profession, for the prompt execution of the Process of the Court, whether in the arrest or release of vessels and their cargoes—looking at all these circumstances, it appears to us that it would not be expedient to attach the Jurisdiction of the Court of Admiralty in Ireland to a Court of Common Law; and that it is desirable, in the interests of shipping and commerce, that the High Court of Admiralty of Ireland should, in accordance with the terms of the Union, be retained as a distinct and separate Court, exercising Admiralty Jurisdiction in Ireland, in the same way and to the same extent as the High Court of Admiralty of England does in England and Wales.

X.—*Extension of the Jurisdiction and Improvement of the Practice of the Court.*

Having arrived at the conclusion that it will be proper to retain a separate Court exercising Admiralty Jurisdiction in Ireland, the next question for consideration is, how far it may be proper to extend its Jurisdiction, and to improve its Practice. With a view of obtaining the opinions of those most interested in the question, we forwarded a copy of Dr. Townsend's "Statement of the Differences in Jurisdiction and Practice" between the English and Irish Courts, to the Judge of the Court of Admiralty in Ireland, to the principal Advocates, to the Proctors practising in the Court, to the Incorporated Society of Attorneys and Solicitors in Ireland, to the principal Chambers of Commerce, and to the Consuls of Foreign States resident in Dublin. The replies which we have received, and which we annex in Appendix A.,‡ show an almost universal concurrence of opinion as to the expediency of assimilating the Jurisdiction and Practice of the two Courts, and in favour of the changes which have worked so beneficially in England. We think that it is of very great importance to the trade and commerce of Ireland, and to foreigners resorting to that country, that the same laws and the same

* Appendix C., p. 53.

† Appendix D., p. 62.

‡ Appendix A., p. 31, *et seq.*

forms of procedure should be found prevailing in both countries. We, therefore, have no hesitation in recommending that the Jurisdiction and Practice of the Court in Ireland should, as far as practicable, be assimilated to that of England.

XI.—*Proposed Extension of Jurisdiction to Freight, Demurrage, &c.*

Our attention was called by some of the foreign consuls* to the expediency of extending the Jurisdiction of the Court of Admiralty in Ireland to questions of Freight and Demurrage, and to other questions of a similar description, likely to arise between the masters or owners of vessels and merchants. We do not, however, think it expedient to recommend such an extension, as the result would be to give the Court of Admiralty in Ireland a wider Jurisdiction than that possessed by the Court of Admiralty in England; and we think the object should be to assimilate the Jurisdiction of the two Courts. At the same time, if it should be deemed advisable so far to extend the Jurisdiction of the Court in England, we think that a similar Jurisdiction should be given to the Court of Admiralty in Ireland.

XII.—*Discharge of the Judicial Duties of the Court.*

The next question to be considered was, in what way the Judicial Duties of the Court could best be discharged. Three modes presented themselves for consideration:—

- (1.) To attach the duties to the Judges of one of the Common Law Courts, the Court itself retaining its character as a separate and distinct Court;
- (2.) To attach them in a similar manner to the Judge of the Court of Probate;
- (3.) To provide for their discharge, as at present, by a separate Judge.

With regard to the first of these proposals, looking to the fact that the Common Law Judges are at times necessarily absent on Circuit, and that thus delays might often occur in the business of the Court, it appears to us that it would not be expedient to attach the discharge of the duties of Judge of the Court of Admiralty to any of the Courts of Common Law in Ireland.

As to the second suggestion, it appears to us,—notwithstanding the terms of the Act of the 20th & 21st of Vict. cap. 79., constituting the Court of Probate in Ireland, the 14th section of which provides, that on the next vacancy in the office of Judge of the Court of Admiralty it shall be lawful for Her Majesty to unite that office to that of Judge of the Court of Probate in Ireland—looking to the fact that even at present the Judge of the Court of Probate in Ireland is frequently employed in hearing causes of great importance, lasting for several days together, in his own Court; that there is no immediate prospect of any diminution in the business of that Court, and that, on the other hand, the business of the Court of Admiralty, with the proposed extension of its jurisdiction and the improvement in its practice, would, no doubt, considerably increase, and that thus delays, which are peculiarly injurious in Admiralty proceedings, might frequently occur; looking at all these circumstances, we are of opinion that it will not be advisable, at all events at present, to attach the duties of Judge of the Court of Admiralty in Ireland to those of the Judge of the Court of Probate.

The only course, then, that remains is the third of those suggested—to continue, as at present, a separate Judge for the discharge of the duties of the office.

XIII.—*Provisions for Appeal.*

We have also considered what provisions it would be necessary to make for securing the proper conduct of Appeals in Admiralty Cases. In England the Appellate Jurisdiction in Admiralty Cases was reformed, so long since as the year 1832, by the Act of the 2 & 3 Wm. IV. cap. 92, and subsequently by the Acts of the 3 & 4 Wm. IV. cap. 41, and the 6 & 7 Vict. cap. 38. By the first of these Acts the old Court of Delegates in England was abolished, and provision was made for the exercise of the Appellate Jurisdiction by the Judicial Committee of Your Majesty's Privy Council. No such provisions, however, have been extended to Ireland, and the Appeal from the Court of Admiralty in Ireland is still, as formerly, to the High Court of Delegates in Ireland. We think that the Court of Delegates as an Appellate Court in Admiralty Causes should be abolished; and, following the principle already recognised in the Court of Probate in Ireland, and in the Landed Estates Court, we think that the Appeal in Admiralty Causes should be to the Court of Appeal in Chancery in Ireland; but that power should be given to that Court, on the hearing of an Admiralty Appeal, to call to its assistance nautical assessors, in the same way as the Judicial Committee of the Privy

* Appendix F., p. 68.

Council in England now does. We think also that it is important, with a view to secure uniformity of decision, that there should be the same Court of ultimate Appeal from both the English and the Irish tribunals; and as we understand that members of the legal profession in Ireland are qualified to practise before the Judicial Committee of Your Majesty's Privy Council in England, we think that there should be an ultimate Appeal, as well from the Court of Appeal in Chancery in Admiralty cases as from the Court of Admiralty in Ireland, to Your Majesty in Council; power being given to Your Majesty to summon one or more members of Your Majesty's Privy Council in Ireland to the Judicial Committee in England. We think too that suitors should have the right to appeal directly to Your Majesty in Council, without being compelled first to pass through the Court of Appeal in Chancery in Ireland; and that the Appeals to Your Majesty in Council should be conducted in the same manner and subject to the same rules as Appeals from the High Court of Admiralty in England.

XIV.—*Salary of the Judge.*

We have also considered what would be the probable expense attending the adoption of the changes we have proposed. We find that the Judge receives at present a salary of only 500*l.* a year. At the same time he has the privilege of appointing a Surrogate to discharge his duties,* and he may also sit in Parliament, and practise as a barrister in other Courts. We think, however, that he ought not to be allowed to appoint a Surrogate, but should discharge the duties of his office in person; and that he ought not to sit in Parliament, and ought not to be allowed to practise as a barrister. But in that case, and looking also to the probable increase in the business of the Court, we think that his salary should not be less than 1,000*l.* a year.

XV.—*All Officers of the Court to be placed on Salary.*

We find that the other principal Officers of the Court are at present paid by fees. In England the practice of remunerating the Officers of the Court of Admiralty by fees was abolished so long since as the year 1840, by the Act of the 3 & 4 Vict. c. 66., which placed them on fixed salaries. We think the same course should now be adopted in the High Court of Admiralty of Ireland. What salaries it will be proper to assign to these Officers may be a matter for future consideration. At present the emoluments which they receive appear, from the Returns which they have forwarded to us,† to be, on an average of 5 years, as follows:

The Registrar, 519*l.* per annum, derived from fees in his offices of Registrar and

Examiner: §

The Marshal,‡ 362*l.* from fees:

The Seal Keeper, 15*l.* from fees:

The Crier, 28*l.* from an annual vote of Parliament:

The Court Keeper, 12*l.* from an annual vote of Parliament.

XVI.—*Retiring Pension of the present Registrar of the Court of Admiralty.*

It appears that the present Registrar of the Court, who has served for upwards of 27 years, holds his appointment by Letters Patent,§ and has the power of appointing a deputy to discharge his duties, and that he has delegated a portion of his duties,|| though not by formal deputation. We think he should be required, as in England, to discharge the duties of his office in person; but, looking to the length of time during which he has served, and the terms under which he holds office, we think that he should be allowed to retire on compensation equal to the amount of his emoluments. From the Returns which he has furnished to us, it appears that the sum of 519*l.* 6*s.* is the average amount of the fees of his office, without deducting payments made by him to his deputy.

XVII.—*Compensation to the Registrar of the Court of Delegates.*

By the abolition of the Court of Delegates as a Court of Appeal in Admiralty causes, the Registrar of the Court of Delegates will lose the chief part of his emoluments. It appears¶ that the present Registrar has held office for upwards of 42 years, and that he also holds his appointment under Letters Patent.** We therefore think that he is entitled to full compensation for the loss he will sustain. From the Returns†† which he has furnished us, his average annual income from Admiralty Appeals for the last five years is 66*l.* 13*s.* 8*d.*

* *Vide* Patent of Appointment, Appendix C., p. 57. † Appendix C., p. 53, *et seq.*

‡ The Marshals on an average of 3 years only. § *Vide* Appendix C., p. 57. || *Vide* Appendix C., p. 61.

¶ *Vide* Appendix C., p. 61.

** *Vide* Appendix C., p. 58.

†† *Vide* Appendix C., p. 55.

XVIII.—*Compensation to Proctors.*

It appears* that there are at present only five Proctors practising in the Court of Admiralty. The changes we have recommended by throwing open the Court to the whole legal profession will abolish their exclusive privileges. When the Courts in England and Ireland, having jurisdiction to grant Probates and Letters of Administration, were thrown open, the Proctors in those Courts received compensation to the extent of one half of the profits of their Probate business on the average of the five preceding years. It is true that, when the High Court of Admiralty of England was thrown open, the Proctors did not receive any compensation; but it was on the ground that they had already received compensation for their Probate business, all Proctors in the Admiralty Court in England having been also Proctors in the Court of Arches. But the Proctors in the High Court of Admiralty of Ireland stand in a different position: they were not Proctors in any of the Courts having jurisdiction to grant Probates in Ireland, and none of them have as yet received any compensation.

We think, therefore, that these gentlemen ought to receive compensation for the abolition of their exclusive privileges of practising in the Admiralty Court of Ireland, in the same manner as the Proctors in England and Ireland were compensated for the loss of their Probate business.

The amount at which they have estimated their annual compensation is 1,743*l.* 19*s.* 9*d.*; but inasmuch as a very short time was allowed them for preparing the Returns upon which this estimate was founded, we think that it must only be regarded as an approximate estimate.

XIX.—*Proctors Apprentices.*

Lastly, it appears† that there are four Apprentices who have been duly articulated to the Proctors of the Court, and who, on completing their full term of service, would be entitled to be admitted as Proctors. We think that on completing the full term of five years from the date of their apprenticeship, and on being qualified to be admitted Proctors, they should be entitled to be admitted as Attorneys and Solicitors, without any further apprenticeship, and without the payment of any further stamp duty, after such inquiry into their fitness as the Lord Chancellor and Judges of the Superior Courts of Common Law shall direct.

RECOMMENDATIONS.

The Recommendations which we submit to Your Majesty are as follow:—

I. JURISDICTION, PRACTICE, AND PROCEDURE.

1. *Assimilation.*

That the jurisdiction, practice and procedure of the High Court of Admiralty of Ireland should, as far as practicable, be assimilated to the jurisdiction, practice and procedure of the High Court of Admiralty of England.

2. *Appellate Jurisdiction.*

- That the Court of Delegates should be abolished as a Court of Appeal from the High Court of Admiralty of Ireland.
- ii. That an appeal from the High Court of Admiralty of Ireland should lie to the Court of Appeal in Chancery in Ireland, with power to the Court to call in nautical assessors to its assistance.
 - iii. That an appeal should lie from the Court of Appeal in Ireland to Your Majesty in Council, provision being made to enable Your Majesty to add to the Judicial Committee of the Privy Council one or more Members of Your Majesty's Privy Council in Ireland.
 - iv. That the appellant should be at liberty to make his appeal in the first instance to Your Majesty in Council, without resorting to the intermediate Court of Appeal.
 - v. That the practice and procedure on appeals from the High Court of Admiralty of Ireland should be assimilated, as far as practicable, to the practice and procedure on appeals from the High Court of Admiralty of England.

* *Vide* Appendix E., p. 66, *et seq.* † *Vide* Appendix E., p. 68.

3. *Power of making General Orders.*

That the power of making orders to regulate the practice and procedure of the High Court of Admiralty of Ireland should be given to the Judge of that Court, subject to such orders being confirmed by the Lord Chancellor of Ireland, and the Lord Justice of Appeal in Ireland.

4. *Proposed Extension of Jurisdiction.*

That in case it should be deemed expedient to extend the jurisdiction of the High Court of Admiralty of England to questions of freight and demurrage, and other questions of a similar nature likely to arise between the masters or owners of vessels and merchants, it would be desirable that a similar extension of jurisdiction should be given to the High Court of Admiralty of Ireland.

5. *Security of Money of Suitors.*

That all money of suitors should be lodged in the Bank of Ireland to the credit of the particular cause or matter, with the privity of the Registrar, and should not be drawn out except under the order of the Court, by a draft signed by the Registrar, and countersigned by the Judge.

II. ESTABLISHMENT.

1. *Separate Court.*

That it is desirable to maintain a Court for the exercise of the Instance Jurisdiction in Admiralty in Ireland.

2. *Judicial Establishment.*

- i. That it is not expedient that the jurisdiction of the Court of Admiralty should be attached to any of the Superior Courts of Common Law in Ireland.
- ii. That as the changes we have recommended, if adopted, will probably have the effect of largely increasing the business of the Court, and to an extent which we are unable at present to estimate, we are of opinion that, until the extent of the increase of business has been ascertained, it cannot be determined whether it is expedient that the same person should be Judge of the Court of Probate and of the Court of Admiralty in Ireland.
- iii. Under these circumstances, we are of opinion that the most expedient course is to continue at present the separate Judge of the High Court of Admiralty of Ireland.
- iv. That it is not expedient that the Judge should have the power of appointing a surrogate, or of practising as a barrister, or of sitting in Parliament; we therefore think it will be necessary to increase the salary of the Judge, which, in our opinion, should not be less than 1,000*l.* per annum.
- v. That provision should be made that in case of the illness or unavoidable absence of the Judge, or in any suit or matter in which the Judge shall have an interest, a Judge of one of the Superior Courts of Common Law or the Judge of the Court of Probate, to whom it may be convenient to attend, shall, at the request of the Lord Chancellor, sit for the Judge of the Court, and exercise all his powers. (See 20 & 21 Vict., cap. 79.)

3. *Official Establishment.*

- i. That the Registrar should act as Secretary to the Judge, and should also discharge the duties of the office of Seal Keeper.
- ii. That according to the precedent established in the Court of Probate in Ireland and the Landed Estates Court, all the officers of the High Court of Admiralty of Ireland should be appointed by the Judge, subject to the approval of the Lord Chancellor, to hold office subject to removal by the Judge with the sanction of the Lord Chancellor.
- iii. That the Registrar and all other officers of the High Court of Admiralty of Ireland should be required to perform their duties in person, except in case of temporary illness, or other reasonable cause, when some other officer or suitable person should be selected by the Judge to supply the officer's place.
- iv. That the present Registrar of the Court, who holds his office by Patent during pleasure, with power to act by deputy, and who has served for 27 years, should have the option of retiring on full compensation.

- v. That the duty of attending the Court of Appeal in Chancery, in Admiralty appeals, should devolve on the Registrar of the Court of Admiralty of Ireland.
- vi. That the present Registrar of the Court of Delegates, who has held office for upwards of 42 years, should receive compensation on the abolition of appeals in Admiralty cases to that Court.

III. FEES.

- i. That the fees in the High Court of Admiralty of Ireland should be collected by means of Admiralty Court Stamps under the Commissioners of Inland Revenue, and the officers of the Court be paid by salaries provided for, as in England, by the annual votes of Parliament.
- ii. That the power of varying, altering, or abolishing the fees should be vested in the Lord Chancellor of Ireland; with the assent of the Lords Commissioners of Your Majesty's Treasury.

IV. OPENING THE PRACTICE OF THE COURT TO THE LEGAL PROFESSION.

- i. That the practice of the High Court of Admiralty of Ireland should be thrown open, as in England, to the entire legal profession.
- ii. That the proctors of the High Court of Admiralty of Ireland, now five in number, not being proctors in the Prerogative and Ecclesiastical Courts, and not having received any compensation under the Irish Probate Court Act of 1857 (20 & 21 Vict. cap. 79), appear to us to be entitled to compensation for the abolition of their exclusive privilege.
- iii. That if the four present apprentices of the Proctors complete their full time of five years, and are qualified to be admitted as proctors, they should be entitled to be admitted as attorneys and solicitors without further apprenticeship, and without the payment of further stamp duty, after such inquiry into their fitness as the Lord Chancellor and the Judges of the Superior Courts of Common Law shall direct.

We humbly submit this our Report to Your Majesty's Royal consideration.*

(Signed)	J. D. FITZGERALD.	(L.S.)
	M. LONGFIELD.	(L.S.)
	ROBERT PHILLIMORE.	(L.S.)
	THOS. STAPLES.	(L.S.)
	THOMAS O'HAGAN.	(L.S.)
	ROB. B. FOLLETT.	(L.S.)
	H. C. ROTHERY.	(L.S.)
	JOHN HAZLETT.	(L.S.)

Dated 21st of May 1864.

(Signed) W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON,
Secretaries.

* *Note.*—The illness and death of Sir William Atherton prevented his taking part in the business of the Commission; and Sir Robert Collier, who accepted the Commission before his appointment as Solicitor-General, was unable, from the pressure of the official duties consequent on his appointment, to take part in the business of the Commission.

HIGH COURT OF ADMIRALTY IN IRELAND COMMISSION.

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1. STATEMENT of the DIFFERENCES between the PRACTICE and PROCEDURE of the HIGH COURT of ADMIRALTY in IRELAND and the PRACTICE and PROCEDURE of the HIGH COURT of ADMIRALTY in ENGLAND. By JOHN FITZHENRY TOWNSEND, LL.D.

1. Preliminary Observations.

IN compliance with the directions of Her Majesty's Commissioners, I have prepared a statement of the differences in the Practice and Procedure of the High Courts of Admiralty of *England* and of *Ireland*.

I found the consideration of the differences of practice involved, to a great extent, that of the differences of the jurisdiction exercised by the respective courts; and, in order to make my statement more intelligible, I have prefixed to it a succinct sketch of the different subject matters of which the respective courts have authority to take cognizance.

The procedure in both courts, originally the same, continued to be (with some differences) substantially the same, until the extensive changes introduced in *England* by the 3 and 4 Vic. cc. 65 and 66, and the still further alterations introduced by the Rules of 1859, made for the regulation of the practice of the *English* Admiralty Court, in pursuance of the 3 and 4 Vic. c. 65, and 17 and 18 Vic. c. 78.

Though derived from a common source, the two systems of procedure are now widely different; the *Irish* Court having, of necessity, retained most of its original peculiarities, with many of its original defects; while the practice of the *English* Court has been altered and improved by direct legislative enactment, and by the exercise of the statutory powers given to the Judge to make rules.

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The *Irish* system continues to be, in many essential particulars, the same as the *English* system was before these recent changes. I have therefore presented, in the first place, a view of the proceedings in an ordinary suit in the Court of Admiralty of *Ireland*, from its first beginning to its final conclusion. My professional experience does not enable me to present, with equal precision, the present practice of the Admiralty Court of *England*; but I have subjoined an outline of the proceedings in an *English* Admiralty Cause, and have pointed out the principal differences in the two modes of procedure sufficiently for the purpose of comparison. I now respectfully submit my statement to the consideration of the Commissioners.

2. Constitution.

In *England* and in *Ireland* the Court of Admiralty is presided over by a single Judge. The Judge of the Court of Admiralty of *Ireland* has power, by his patent, to appoint a Surrogate, who may exercise his powers in his absence.

The Admiralty Court of *England* has been made a Court of Record by the Admiralty Court Act, 1861, sect. 14, and its decrees and orders have the effect of judgments at common law. (Sec. 15.) The Admiralty Court of *Ireland* is not a Court of Record; but it has authority, as the *English* Court also had before the statute, by immemorial usage, and the necessity for enforcing its orders, to fine and imprison for contempt; in cases of

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default of bail; for disobedience to its warrant, and in execution of its sentences and orders.

But the Judge of the Admiralty Court of *Ireland* is liable to be sued for any act, not strictly legal, done by him in the exercise of his judicial functions, which are often of a difficult and delicate nature. In *England*, on the contrary, it is enacted by the 19th section of the 3rd and 4th Vic., cap. 65, that no action shall lie against the Judge of the Admiralty of *England* for error in judgment; and he is thereby given the same protection as the judges of the Superior Courts of Law enjoy in the exercise of their office.

In *England*, by the 22nd and 23rd Vic., cap. 6, all serjeants, barristers-at-law, attorneys, and solicitors were enabled to practise in the Court of Admiralty, with the same rights and privileges as its advocates and proctors theretofore respectively enjoyed. In *Ireland* the advocates and proctors of the Court are still held to have the exclusive right of practising in it. The admission to practise in it, however, entitles the person admitted to practise in the High Court of Delegates in maritime cases.

In *England* a party may conduct his suit in the Admiralty Court in person. (See Rule 1, 1859.) In *Ireland* it is necessary, according to the ancient practice of the Court, that a Proctor of the Court should be employed, who is responsible for the conduct of the suit.

3. Jurisdiction.

Branches
of the Ad-
miralty
Court.
1. The In-
stance
Court.

2. The
Prize
Court.

In *Ireland*, as in *England*, the Admiralty Court was deemed to consist of two distinct branches, the Instance Court and the Prize Court; the former having cognizance of contracts made and wrongs committed on the high seas; the latter having jurisdiction in questions of prizes taken at sea. Neither court had authority in cases of booty of war, taken on land by a land force, until jurisdiction was given to the *English* Court of Admiralty in such cases by the 3 and 4 Vic., c. 65, sec. 22; that jurisdiction has never been extended to the *Irish* Court.

The foundation and legality of the prize jurisdiction of the *Irish* Court have been questioned. It has been asserted that a Royal Commission was necessary to give authority in such cases; that no such commission can be shown to have issued to the *Irish* Admiralty Court, and it has been thence concluded that no legitimate exercise of its prize jurisdiction can be shown. (See 18th Report on Courts of Justice in Ireland, p. 2). On the other hand, it has been argued that every Admiralty Court has inherent jurisdiction in questions of prize; that the Judge's Patent sufficiently empowers him to try them; that by virtue of that authority, or of the inherent jurisdiction, or both, the *Irish* Court had full right to decide such questions; and that, although its prize decisions have been appealed from, its authority to decide has not been questioned in the Court of Appeal. However that may be, it is certain that, by the Prize Acts, 19 Geo. III., c. 67, and 21 Geo. III., c. 15, it was enacted that, distribution should be made of the prizes therein mentioned, after the same had been finally adjudged lawful prize in any of His Majesty's Courts of Admiralty in Great Britain, or in His Majesty's Plantations in America, or elsewhere. And by the subsequent Acts, 33 Geo. III., c. 66, and 37 Geo. III., c. 109, similar provision was made for the distribution of prizes after the same should respectively have been adjudged prize in any of His Majesty's

Courts of Admiralty or Vice-Admiralty in Great Britain, or in His Majesty's Plantations in America, or elsewhere, which should be duly authorized to take cognizance of such captures. Perhaps it may be thought that these acts conferred an authority on the Court of Admiralty of *Ireland*, or recognized such an authority as existing: at all events, it appears, by the Act Book of the Court, that it frequently exercised a prize jurisdiction before the Act of Union. (40 Geo. III. c. 38). The eighth article of that statute provided for the continuance of the Courts of Judicature of the respective kingdoms, as then established, subject only to such alterations as Parliament might from time to time think proper, with the following remarkable proviso: "Provided that from and after the Union there shall remain in *Ireland* an Instance Court of Admiralty, for the determination of causes civil and maritime only; and that the appeal from sentences of the said Court shall be to His Majesty's Delegates in the Court of Chancery" in *Ireland*; "and that all laws at present in force in either kingdom, which shall be contrary to any of the provisions which may be enacted by any Act for carrying these articles into effect, be from and after the Union repealed." Some have suggested that, as this Act deals with the Instance Court only, it is not to be construed to affect the Prize Court at all. That question has never been judicially decided; but it seems to have been taken for granted that the inherent prize jurisdiction, if ever it existed, of the Court of Admiralty in *Ireland*, has been abolished; for, since the Act of Union came into operation, the *Irish* Court of Admiralty has not taken cognizance of prize questions; and it is the general opinion of most of its practitioners that it cannot do so without special authority. I shall, therefore, make no further mention of the Prize Branch of the *Irish* Court, or of its prize practice or procedure.

The Criminal Branch of the Admiralty Court may be here briefly noticed. The Courts of Admiralty both of *England* and *Ireland* anciently had cognizance of all crimes and offences committed at sea, or on the coasts out of the body of a county; and by the 15 Richard II., cap. 3 (extended to *Ireland* by Poynning's Law, 10 Henry VII., cap. 23, *Irish*), of death and mayhem in ships in ports and havens and arms of the sea. But it was enacted in *England*, by 28 Henry VIII., cap. 15, that all treasons, felonies, robberies, murders, and confederacies, thereafter to be committed within the Admiralty jurisdiction, should be tried by commissions of oyer and terminer, according to common law. In these commissions were always named the admiral or his deputy, two of the Common Law judges, and some of the practising civilians. (See *Reg. v. Serva*, 2 Car. and K., 55.) That statute did not affect the jurisdiction of the Admiralty, but only the mode of trial. It empowered the Commissioners to try only the offences mentioned in it; but by 39 Geo. III., cap. 37 (*English*), all offences whatever, committed on the high seas, were made punishable as if committed on land, and triable in the manner directed by 28 Henry VIII., cap. 15. By 4 and 5 William IV. (*English*), which established the Central Criminal Court in *England*, the Judges of that Court were empowered to try offences committed within the Admiralty jurisdiction, and the Judge of the Court of Admiralty of *England* was appointed one of the Judges of the Central Criminal Court. By 7 and 8 Victoria, cap. 2 (*English*), power was given to any Judge of oyer and terminer

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3. The
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to try offences committed within the Admiralty jurisdiction; preserving, however, the Central Criminal Court as a Court of Admiralty. And, lastly, by the Acts of 1861, for consolidating the Criminal Law (24 and 25 Victoria, caps. 96, 97, 99, and 100), it is provided that, as to all indictable offences mentioned in each of them, which shall be committed within the jurisdiction of the Admiralty, and as to accessories, which shall become such, to any felony, the offenders may be tried and dealt with in the county where they are apprehended or in custody.

In *Ireland* the 28th Henry VIII., cap. 15, was enacted in the same words by the 11th, 12th, and 13th Jac. I., cap. 2 (*Irish*), amended by the 23rd and 24th Geo. III., cap. 14 (*Irish*). Subsequent Acts gave the Commission Court in *Ireland* a similar extent of jurisdiction to that which the Commission Court in *England* possessed; so that all offences, whether crimes or misdemeanors, were triable by the Commission Court in *Ireland*, as if committed on shore. But as the 4th and 5th Wm. IV., cap. 36, and 7th and 8th Vic., cap. 2, did not extend to *Ireland*, it continued to be necessary to issue commissions there under the 11th, 12th, and 13th Jac. I., cap. 2, for the trial of offences committed on the high seas, until the Criminal Law Consolidation Acts of 1861, above referred to (which apply to both countries), came into operation; those Acts have rendered the commission unnecessary in any of the cases to which they are applicable. But they have not abolished the Admiralty jurisdiction, which still legally exists; and in fact, although all accessories to any felony may be tried as in ordinary cases, yet it seems that principal offenders must be tried for any offence, not comprised in the statutes, in the Commission Court of the Admiralty, as heretofore. The Criminal Branch of the Admiralty jurisdiction both in *England* and *Ireland* may thus be said to have been transferred to the Common Law tribunals, the practice of which does not come within my present province.

There are, however, some relics of the criminal jurisdiction of the Admiralty still left in the powers which the Admiralty Courts of both countries possess of punishing the masters and officers of merchant vessels for misconduct in certain cases. Thus, in *England*, the Court of Admiralty may, under the *English* Act, 22nd and 23rd Car. II., cap. 11, sec. 2, punish the master of a ship for not resisting pirates. That Act did not extend to *Ireland*, and therefore the *Irish* Court of Admiralty does not possess that statutory power.

By the Merchant Shipping Act, 1854, sec. 105, a penalty not exceeding £500 is incurred for wearing illegal colours. As the wearing illegal colours is a contempt of the ancient authority of the Court, a suit might be maintained for that offence in the *Irish* Court of Admiralty independently of the statute. Some instances of suits for wearing illegal colours are to be found in the *English* Reports. (*The Minerva*, 3 C., Rob. 34; *The King v. Miller*, 1 Hag. 197; *The King v. Benson*, 3 Hag. 96; *The Queen v. Ewen*, 2 Jurist, N.S., 454.) Instances of the like suits are, I am informed, to be found in the Registrar's Books of the *Irish* Court of Admiralty, but there are none in its reported decisions.

By the same Act (Merchant Shipping Act, 1854), sec. 103, the Courts of Admiralty of *England* and *Ireland* respectively are empowered to adjudicate upon and condemn to forfeiture any ship for offences against that section.

The Courts of Admiralty in *England* and *Ireland* may also, by virtue of their ancient jurisdiction, punish masters of merchant vessels for disrespect in not striking topsail or lowering colours to Her Majesty's ships. (See the case of the *Native*, 3 Hag., A.R., 97.) Or for secreting seamen in fraud of the public service. Such cases are, however, almost unknown in practice.

Suits of this nature, including those for wearing illegal colours, have generally been instituted by the Queen's Proctor in *Ireland*, or the Admiralty Proctor in *England*. Where the offence is palliated or excused, the penalty is not sued for; in other cases it may be inflicted. The proceedings have generally terminated by an apology and payment of the costs.

The ancient jurisdiction of the Court of Admiralty in the government of the Royal Navy was abolished by the institution of Naval Courts Martial, under the *English* statutes, 13 Car. II., statute 1, cap. 9; and 22 Geo. II., cap. 33.

In *England* and *Ireland* the Instance Courts of Admiralty have immemorially had jurisdiction in causes of seamen's wages, salvage, derelict, pilotage, damage by collision, and bottomry.

They have also immemorially had jurisdiction in causes of possession and causes of restraint; the former being suits to enable a sole owner to regain possession of his ship, when wrongfully detained; the latter being suits wherein the Court compels the majority of part owners to give security to the minority for the safe return of a ship, when employed on a voyage which the minority disapprove of.

As incidental to the above-mentioned classes of causes, the Admiralty Courts of both countries entertain all questions relative to the payment out of Court of balances of funds remaining in the Court to the credit of a cause; all questions relating to the liability or discharge of bail; and all questions respecting the apportionment of salvage. The last-mentioned jurisdiction is specially confirmed to them, both in *England* and *Ireland*, by the Merchant Shipping Act, 1854, sec. 498.

In *England* the Admiralty Court has authority by statute (see 6 Geo. IV., cap. 46, and 13 and 14 Vic., cap. 26) to adjudicate respecting the return, to their rightful owners, of goods found in the possession of pirates. That Act appears to be merely confirmatory of an ancient jurisdiction of the Court. (See *The Panda*, 1 W. Rob. 423). As the ancient jurisdiction of both Courts was co-extensive, the *Irish* Court appears to possess a similar authority, independently of the statutes.

The 11 and 12 Wm. III., cap. 7, sec. 11 (*English*) enabled officers and seamen who defend a ship against pirates to recover remuneration by the process of the Admiralty Court; and the 8 Geo. I., cap. 24 (*English*) enacted that any ship trading or corresponding with or supplying pirates, and any goods on board thereof, should be forfeited, and might be sued for in the Court of Admiralty of *England*.

In *Ireland* there is no enactment corresponding to either of the two last-mentioned statutes.

The Admiralty Courts in both *England* and *Ireland* have immemorially adjudicated upon the claims of owners of derelict property. When a ship, or other property, was found derelict at sea, it was usual, if the value of the ship or goods warranted the proceeding, that the Queen's Proctor should issue a warrant on behalf of the Crown, in the office of Admiralty, to seize such property as a *Droit*, as well for the protection of the Crown's rights as to preserve the property for the

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owners, if appearing in due time. But suits for the condemnation of derelict have become very infrequent in *Ireland* since 9 and 10 Vic., cap. 99, which gave the custody of such property to the Receivers appointed under that Act, whose office is continued by the Merchant Shipping Act, 1854. When derelict property is proceeded against in the Admiralty Court of *Ireland*, a libel is filed by the Queen's Proctor, on behalf of the Queen, in her office of Admiralty, and witnesses are examined as to the dereliction; but such proceedings are now fallen into disuse. The owners, before they can obtain a release of their property, must prove their claim to it; if it be disputed, the case is argued and decided in Court. But the ownership is generally proved by an affidavit of the claimant, accompanied by proof of the ship's register, and the bill of lading. These documents are laid before the Queen's Proctor, and by him before the Queen's Advocate; if the latter gives his opinion that the evidence is satisfactory, the Queen's Proctor at once consents to a decree of restitution, which is accordingly made, subject to the payment of the costs of the Crown, and on bail being given to answer the claims of salvage, if any. Since the Merchant Shipping Act, 1854, the derelict property, if not claimed within a year, is deemed to belong to the Crown without any condemnation; but it will be restored at any time while it remains in specie, or if sold, its net proceeds will be restored, on proof of the ownership.

Salvage.

The salvage jurisdiction in both *England* and *Ireland* is regulated by the Merchant Shipping Act, 1854, secs. 458, 459, 460, and the Merchant Shipping Amendment Act, 1862. In either country the Court of Admiralty can entertain an original suit for salvage only when the value of the property saved exceeds £1,000. But the Admiralty Courts have jurisdiction as Courts of Appeal from the Justices of the Peace, to whom, if the value of the property saved does not exceed £1,000, the case must be referred in the first instance; and to whom the case may be referred by consent of the parties, whatever be the amount of the claim. By the Admiralty Court Act, 1861, sec. 9, the provisions of the Merchant Shipping Act, 1854, in regard to salvage of life out of the United Kingdom, are extended to such cases wherever the services may be performed. So that cases of salvage of life, wherever the salvage is rendered, are now cognizable by the Court of Admiralty of either country.

Wages.

In *England*, by the Admiralty Court Act, 1861, sec. 10, the Court of Admiralty has jurisdiction over any claim for seamen's wages earned on board ship, whether under a special contract or otherwise, and over any claim by a master for wages earned by him on board ship, and for disbursements made by him on account of the ship, subject to liability to costs, if the plaintiff do not recover over £50, unless the Judge shall certify for costs. This clause, it is observable, does not apply to wages earned by the seaman or master while on shore, though in the service of the ship.

In *Ireland* the law still is the same as it was in *England* before the Act of 1861. Seamen's wages, due under any special contract, cannot be recovered in the Admiralty Court; and, in a recent instance, a summary petition for wages was dismissed by the Judge, with reluctance, on that technical ground. Nor can a suit for wages be instituted in that Court by any seaman or apprentice, unless in the cases excepted in the 189th

section of the Merchant Shipping Act, 1854. That section amounts to a positive prohibition, save in the excepted cases, and does not merely disentitle the party to costs. (See *The King William*, 2 W. Rob. 231.)

The master of a ship could not have recovered his wages in the Admiralty Court in *Ireland* at all until the modern statutes, which enabled him to do so, if the owner were declared bankrupt or adjudged insolvent. He has now, however, by the Merchant Shipping Act, 1854, s. 191, the same rights, liens, and remedies as an ordinary seaman has for the recovery of his wages; but he has no remedy in the Admiralty Court of *Ireland* for his ordinary disbursements. All that the Act of 1854 has done for him, in this respect, is to give him the right to have his whole account gone into, in case any counterclaim be set up against him. He has, however, an equitable claim against the freight for any extraordinary expenditure incurred by him in performance of the contract under which the freight was earned.

In *England* the 3 and 4 Vic., c. 65, gave the Court of Admiralty jurisdiction to adjudicate on claims of damage received by any ship, although she might not have been at sea, but within the body of a county when the damage was received. By the 7th section of the Admiralty Court Act, 1861, the *English* Court is given jurisdiction over any claim for damage done by any ship, anywhere. The damage done, in the former case, the damage received, in the latter case, may be by any means whatsoever.

In *Ireland* the Court has jurisdiction in cases of damage done to ships, by collision or otherwise, but, in strictness, only if the damage were done upon the high seas, beyond the extent of an *Irish* county. In cases of collision, it is evidently desirable to have a tribunal suited for and accustomed to the consideration and decision of questions of nautical skill, such as are usually involved in such disputes. But collisions very frequently happen in rivers, harbours, or ports, which, in contemplation of law, are within the body of a county; and suits for collisions occurring in such places have been frequently brought and adjudicated in the *Irish* Admiralty Court, without any objection to the want of jurisdiction. The Court will not raise the objection, if the defendant does not think proper to do so; nor would the Court be prohibited, unless the objection to its jurisdiction were expressly raised for its decision.

In *England* the Admiralty Court is empowered by 3 and 4 Vic., c. 65, s. 6, to decide questions "in the nature of towage," whether the ship towed was within the body of a county or not at the time of the service. In *Ireland* there is no such enactment; a suit for mere towage, if unconnected with salvage, would not, it seems, be maintainable at all; certainly not if the work were done within the body of a county. I am not aware of any suit in *Ireland* for mere towage, unconnected with salvage; the present Judge has, as I am informed, refused a warrant for such a demand.

In *England* and *Ireland* a pilot is deemed a mariner, and, as such, may sue for his wages in the Courts of Admiralty, which by the maritime law, has the equitable right to moderate or supersede extortionate contracts for pilotage service. If unconnected with salvage, the Court has no jurisdiction in such a case, if the work be done within the body of a county.

The 3 and 4 Vic. cap. 65, sec. 3, gave jurisdiction to the Admiralty Court of *England* over mortgages of ships, when the vessel mortgaged

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was already in Court, or the proceeds of the sale of it were in the Registry. The Admiralty Amendment Act, 1861, sec. 11, has extended that jurisdiction to any claim in respect of a duly registered mortgage of a ship whether she be under arrest or not.

In *Ireland* the Court of Admiralty has no jurisdiction whatever in cases of mortgages of ships: but is subject to the inconvenience of leaving all questions respecting them undecided, even in cases where the ship or its proceeds are subject to adjudication in a different cause.

In *England*, by the Admiralty Court Act, 1861, sec. 8, it is enacted that the Court of Admiralty shall have jurisdiction to decide all questions arising between the co-owners, or any of them, touching the ownership, possession, employment, and earnings of any ship registered at any port in *England* or *Wales*, or any share thereof; and may settle all accounts outstanding and unsettled between the parties in relation thereto, and may direct the ship, or any share thereof, to be sold, and may make such order in the premises as to it shall seem meet.

In *Ireland* the Court has no authority beyond that which it has exercised from ancient times in possession causes, as above mentioned. It cannot deal with mere questions of contract between co-owners, nor ascertain the value of shares. Nor can it take any accounts between part owners, whether directly or incidentally.

In most countries governed by the civil law, the building and repairing of ships, and the supplying them with "necessaries" (a technical term of very wide meaning), formed a maritime lien on the ship herself; and in *England* as well as in *Ireland* the same doctrine was long held by the Admiralty Courts, which enforced such maritime liens in the class of suits called Material Causes. This lien was also held to extend to the proceeds of the ship, if sold by the Court in another cause. That doctrine, as to the ship, was overthrown by the courts of law in *England* so long since as the reign of Charles II.; but the practice of paying such demands out of the proceeds of a sale, continued until 1835, when it was decided by the Privy Council to be illegal. (*The Neptune*, 3 Knapp, P.C.C., 94.)

By the 6th section of the 3 & 4 Vic., c. 65, it was also enacted that the *English* Court should have jurisdiction to decide all claims for necessities supplied to any foreign ship or sea-going vessel, whether supplied within the extent of an English County, or upon the High Seas. That jurisdiction extended, however, only to foreign ships, and colonial vessels were not comprised in it.—(*The Ocean*, 9 Jurist, 381; *The Ocean Queen*, 1 W. Rob., 457.) The 4th and 5th sections of the Admiralty Court Act, 1861, enact that the *English* Court shall have jurisdiction over any claim for the building, repairing, or equipping of any ship, if at the time of the institution of the cause, the ship or the proceeds thereof are under arrest of the Court; and (by the 6th section) jurisdiction was also given to the same tribunal over any claim for necessities supplied to any ship elsewhere than in the port to which the ship belongs, unless it is shown that any owner or part owner of the ship is domiciled in *England* or *Wales*; provided that the plaintiff shall not have costs unless he recover £20, except in cases in which the Judge shall certify for costs. These sections do not appear to create a new maritime lien, but only to give a new right of action *in rem*.

In *Ireland* the Court of Admiralty, being an

independent tribunal, has not adopted the *English* decisions respecting material suits; but on the contrary has continued to exercise its ancient jurisdiction in such cases, both in original suits and against the proceeds of sales. Instances of that nature are to be found in great numbers in the Acts of Court, from the earliest period to which they extend to the present time. But although no prohibition has issued, nor any statute been enacted to restrain such proceedings, the Judges of the Court of Admiralty in *Ireland* appear to have had some hesitation in administering this branch of its authority, which, however ancient, and however supported by precedent, they have felt to be in derogation of the common law.—(*The Shannon*, 6 Irish Jurist, 82; *The Moffatt*, 4 Irish Jur., N.S., 42.)

Still, notwithstanding some conflicting dicta, it has been exercised both against foreign and home ships, and against the proceeds of both in the registry; though rather by sufferance than with the sanction of the Superior Courts of Law. Such a jurisdiction seems to have been found convenient and useful, as it was generally unopposed. It has, however, been always deemed essential in such cases, to allege and prove that the repairs had been done, or the goods, &c., had been supplied, on the faith and credit of the ship; for if it were shown that the advances were made on personal credit, the suit would be dismissed.

In *England*, the 6th section of the Admiralty Court Act, 1861, gives jurisdiction to the Court in cases of claims for damage done to goods by any negligence or breach of duty, or breach of contract, on the part of the owner, master, or crew of the ship, unless it be shown that at the time of the institution of the suit, any owner of the ship is domiciled in *England* or *Wales*; subject to liability for costs, unless the Judge shall certify for them.

In *Ireland* the Court of Admiralty appears to have formerly claimed cognizance of breaches of maritime contracts contained in bills of lading or charter parties—(see 2 *Brown's Civil and Ad. Law*, p. 534), though such proceedings would, in *England*, have been subject to prohibition. Some attempts were made, within the last few years, to revive this jurisdiction, which was probably deemed to be a desirable one, in cases of foreign ships, which, in the Admiralty proceedings, were attached by the Court in the first instance; whereby the foreign owners or masters were prevented from frustrating the ends of justice by removing their property from the reach of legal process. But so much difficulty was experienced in these proceedings, owing to the limited extent of the power of the Court, and the risk of exceeding its recognised and habitual jurisdiction, that they were soon given up, and have again fallen into disuse.

In *England* by the Admiralty Court Act, 1861, the Court is empowered to take accounts between part owners of ships.

In *Ireland* no such power exists; the Court can only decree for security; all questions of account must be dealt with in the Court of Chancery.

By the 527th section of the Merchant Shipping Act, 1854, it is enacted, that whenever any injury in any part of the world has been caused to any property belonging to Her Majesty, or any of her subjects, by any foreign ship, if at any time thereafter such ship is found in any port or river of the United Kingdom, or within three miles of the coast thereof, the Judge of any Court of Record in the United Kingdom, or the Judge of the

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Court of Admiralty, or in *Scotland*, the Court of Session, or the Sheriff of the county, within whose jurisdiction the ship may be, upon its being shown to him that the injury was probably caused by the misconduct or want of skill of the master or crew of the vessel, may issue an order to any officer of customs, or other officer named by such Judge, requiring him to detain the ship until satisfaction shall be made for the injury, or security given to abide the event of any legal proceedings respecting it, and to pay the damages and costs.

The *Irish* Court of Admiralty has been omitted from this section, as also from the corresponding clause in the preceding Act, 8 & 9 Vic., c. 99, sec. 41.

Proceed-
ings in *rem*
and in *per-
sonam*.

The Admiralty jurisdiction in *Ireland*, as in *England*, is held to be exercisable *in rem*, or *in personam*. The jurisdiction *in rem* is restricted to the enforcement of maritime liens, by which a remedy is given against the property itself, whether ship, cargo, or freight. The jurisdiction *in personam* enables the plaintiff to enforce satisfaction of his demand by a personal action against the defendant. The latter was primarily the mode of acting, the proceeding *in rem* being deemed only ancillary; but the proceeding *in personam* has become obsolete in practice, so far as regards the primary institution of a suit of that nature, excepting only in suits for the distribution of salvage under the Merchant Shipping Act, 1854, and in appeals from awards of salvage, made by magistrates, under the same statute.

By the 17th & 18th Vic., sec. 13th, it is enacted, that in all cases in which a party has a right of action in the Court of Admiralty of *England* against any ship, freight, or goods, it shall not be necessary for the institution of the suit to sue out a warrant for the arrest thereof, but the plaintiff may proceed by monition, citing the owners to appear, and defend the suit; and upon satisfactory proof of the personal service of the monition, the Court may proceed to hear and determine the cause. And by the 35th section of the Admiralty Court Act, 1861, it is enacted, that the jurisdiction conferred by that Act on the *English* Court, may be exercised either by proceedings *in rem* or *in personam*. A similar jurisdiction to that conferred by the 17th & 18th Vic., c. 13, was exercised by the Court before that Act, and as the statute only confirms that ancient jurisdiction, which the two Courts of Admiralty exercised alike, the law in *Ireland* appears to be that a plaintiff, who has the option of proceeding *in rem* or *in personam*, may proceed in either way.

Statutory
powers of
English
Court.

The Court of Admiralty of *England* has recently been empowered to entertain proceedings in the nature of an interpleader motion, with respect to property taken in execution under its process; and to exercise the powers of the Superior Courts of Law in compelling parties to answer interrogatories, and produce documents, and in substituting service of process. The Judge and Registrar are also respectively given the same powers as the Judges and Masters of the Superior Courts of Law are given by the Common Law Procedure Act, 1854, with regard to references to arbitration. (Ad. Court Act, 1861, secs. 16, 17, 20, and 23.)

Not ex-
tended to
Ireland.

Equitable
jurisdic-
tion.

The Court of Admiralty of *Ireland* has none of these statutory powers.

The Court of Admiralty of *England* does not claim the character of a Court of General Equity, but it proceeds upon equitable principles, and exercises an equitable as well as a legal jurisdiction.

The Court of Admiralty of *Ireland* exercises also an equitable jurisdiction, incidentally and in the progress of a cause, to the same extent and in the same manner as the Court of Admiralty of *England*.

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4. PROCEDURE in the HIGH COURT of ADMIRALTY of IRELAND.

The proceedings in an Admiralty suit in *Ireland* may be conveniently classed under the following heads.

- I. From the institution of the suit to the definitive sentence.
- II. From the definitive sentence to execution.
- III. Interlocutory applications.

As proceedings *in rem* are by far more usual than proceedings *in personam*, it seems proper first to consider the several steps in an action *in rem*; many of those in an action *in personam* being exactly similar.

I. FROM THE INSTITUTION OF THE SUIT TO THE DEFINITIVE SENTENCE IN AN ACTION IN REM.

(1.) Warrant.

In *Ireland* an Admiralty cause *in rem* is commenced by the proctor of the plaintiff (there called the promovent) laying before the Judge, or in his absence, before his Surrogate, an affidavit to lead the warrant. The affidavit should state the nature, particulars, and amount of the demand, and show sufficient ground for the interference of the Court. In salvage cases no specific sum is in general demanded. The affidavit need not be in any particular form; it may be made by the plaintiff himself, or by one of several plaintiffs, or by the master of a ship on his own behalf and that of his crew or owners; or it may be made by the proctor of the plaintiff, and may be on the information and belief of the person who makes it. It should be sworn before the Judge, or a Commissioner of the Court; but this rule is not strictly adhered to; affidavits of this kind may be sworn before a magistrate in the country, if there is no Commissioner in the neighbourhood.

Affidavit
to lead to
Warrant.

If the Judge, or Surrogate, thinks the affidavit shows a sufficient ground of suit, he signs at foot of the affidavit, a fiat, which is directed to the Registrar of the Court; and is to the following effect:—"Let a warrant issue at the suit of *A. B.* of *D.* against the ship *C.* of *D.*, and her cargo, for the sum of £— tested the day of 1863, and returnable the day of 1863. *E. F.* Judge of the High Court of Admiralty of *Ireland*."

The affidavit with the fiat is then taken to the Registrar, who fills up and signs a warrant accordingly, which then passes the seal of the Court. The warrant is printed on parchment, and is usually in the following form:—

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth. To Clement Taylor, Esquire, Marshal of our High Court of Admiralty of Ireland, and to his Deputy, whomsoever. Greeting: We do hereby empower you, and strictly charge and command you, jointly and severally, that you omit not, by reason of any liberty or franchise, but that you arrest, or cause to be arrested, the good brig or vessel called the *Alice* of London, her boats, rigging, tackle, apparel, and furniture, and the cargo now or lately on board thereof, now lying or floating in the port or harbour of Cork, or where-soever you shall find the same, and the same so arrested you keep under safe and secure arrest until you shall receive further orders from us, and that you cite at the

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premises John Thomas, the Master of the said brig or vessel in special, and all persons in general, who have, or pretend to have, any right, title, or interest therein, that they appear before the Honourable Thomas Frederick Kelly, Doctor of Laws, Judge of our said Court, or his Surrogate, in the Admiralty-Court, adjoining the Four Courts, Dublin, on Monday, the Second day of November, 1863, if it be a court day, else on the court day following, at the usual place and time of hearing causes, there to answer John Jones, of the city of Dublin, merchant, in a certain civil and maritime cause of bottomry. And further to do and receive, in this behalf, as to justice shall appertain; and that you duly certify us, or our said Judge, or his Surrogate, what you shall do in the premises, together with these presents. Given at Dublin, in our aforesaid Court, under the seal of the same, for causes, the 30th day of October, in the year of our Lord One thousand eight hundred and sixty-three, and of our reign the twenty-seventh.

JOHN ANSTER, LL.D., *Registrar.*

Action £1,000, by fiat.

John Taylor Hamerton, *Proctor*,
61, Upper Sackville-st., Dublin.

The warrant is then handed to the Marshal by the proctor who issued it. The Marshal is bound to execute it, by himself or his deputy. But if the vessel be not in the port of Dublin, the warrant is generally executed by persons nominated by the promovent, who are deputed by the Marshal by an endorsement on the warrant, appointing the nominees to execute the warrant at the promovent's risk. The Marshal also gives to the nominees a "Back-warrant," which remains in their hands as their authority for the detention of the ship. The form of this instrument, which is, I believe, peculiar to the *Irish* practice, is as follows:—

IRELAND.

To wit.

James Roe, *Promovent*.
The brig *William* of
Liverpool, *Impugnant*.

By CLEMENT TAYLOR, Esquire, Marshal of Her Majesty's High Court of Admiralty of Ireland. To John Morris and William Thompson, special nominees for this purpose, at the promovent's nomination and peril. By virtue of Her Majesty's warrant to me directed, these are to authorize and empower you, and in Her Majesty's name I charge and command you, jointly and severally, and your assistants, at the said promovent's peril, risk, and expense, to seize and arrest the good brig or vessel called the *William* of Liverpool, her boats, rigging, tackle, apparel, and furniture, now lying or floating in the port or harbour of Dundalk, or wheresoever you shall find the same, and the same so arrested, you keep under safe and secure arrest, at the said promovent's peril, risk, and expense, upon a warrant issued forth of said Court, and under the seal thereof for causes, to me directed, that the Judge of Her Majesty's said Court may be certified thereof, on the 10th day of December, 1863, to answer unto James Roe, of D., in a certain civil or maritime cause of collision until the release thereof, and my further order, as you shall answer the contrary at your peril; and for your so doing, this shall be your sufficient warrant. Sealed with my seal of office, and dated this 21st day of November, 1863.

CLEMENT TAYLOR, *Marshal. (Seal).*

Action £500.

John Taylor Hamerton, *Proctor*.

Notwithstanding the deputation, the Marshal remains answerable to the Court for the due execution of the warrant, and for the care of the property arrested under it.

The warrant, when issued, is generally executed, and may be so in all cases; but sometimes, to prevent inconvenience, the proctor of the defendant (here called the *impugnant*), appears

before the arrest and gives bail; but that is done only by private arrangement.

In such cases the warrant is not executed; but the Marshal must be paid his fees as if it had been so; and whenever the warrant is placed in his hands, he may, if he pleases, insist on arresting the property, he being answerable for the due execution of the process of the Court.

The warrant of the *Irish* Court of Admiralty can be executed only in an *Irish* port, or in *Irish* waters, by which is understood a distance of three miles from the shore.

One of the persons named in the deputation then makes affidavit of the due execution of the warrant, in the following form, which will explain the mode in which the warrant is executed.

IN HER MAJESTY'S HIGH COURT OF ADMIRALTY OF IRELAND.

John Jones, *Promovent*.
The brig *Alice* of Lon-
don, and Cargo, *Impug-*
nant.

WHEREAS there issued forth of this Honorable Court, and under the seal thereof a warrant in this cause, directed to the Marshal of this Honorable Court, and to his deputy, whomsoever, bearing teste at Dublin, the 23rd day of October, in the year of our Lord, 1863, and returnable into the said Court on the Second day of November, 1863, whereby the said Marshal, or his deputy, was commanded to arrest, or cause to be arrested, the brig *Alice* of London, her boats, rigging, tackle, apparel, and furniture, and the cargo now or lately on board thereof, the party impugnant in this cause, wheresoever he should find the same, to answer the promovent, as in said warrant mentioned. And whereas, by a deputation on said warrant signed "*Clement Taylor, Marshal*," said Marshal did appoint and empower A. B. of D., and C. D. of D., jointly and severally, and their assistants, to execute the said warrant, as by the said warrant with said deputation thereon, hereunto annexed, may more fully appear.

Now A. B. of D., in the county of D., one of the persons named in the said deputation, aged twenty years and upwards, maketh oath and saith, that by virtue of the said warrant and said deputation thereon, to him this deponent and said other person, he, this deponent, on the 30th day of October, 1863, duly arrested the good brig or vessel called the *Alice* of London, and the cargo on board thereof, then lying in the harbour of Cork, by reading the said warrant aloud, on board thereof, marking the mainmast of the said vessel with the broad arrow (thus ↑), and leaving a true copy of the said warrant affixed to the said mast.

Sworn before me, this 1st day of November, 1863, &c.

J. T. Hamerton, *Proctor*.

The Marshal then hands back the warrant to the proctor, with a certificate endorsed thereon, that he has arrested the ship, &c., at such a time and place, and has cited such and such parties, according to the tenor of the warrant. The warrant should be executed before the return is out, but the Court, for sufficient cause, will renew the warrant. A second warrant may be obtained by a different party before the first has been executed, but generally upon the terms, that if the first shall be executed, the second promovent shall have only the costs of an intervention in respect of the second warrant. After the property has been arrested, no second warrant against it will be issued while it remains in custody, as any subsequent claimant may intervene in the original cause, and in that manner prosecute his suit.

If the Marshal or his substitute has been unable to arrest the property, he makes a special return accordingly.

The sufficiency of the Marshal's return may be contested and examined on special motion to the Court for that purpose, and by the same means

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he may be compelled to make a return if he neglect to do so.

The warrant must, in all cases, be returned to the Court; but if the execution of it is not required in consequence of the undertaking and consent of the impugnant's proctor, the fact is so stated to the Court, and the impugnant's proctor, according to arrangement, then appears, exhibits his proxy, and tenders bail. All this is done by the proctors, relying on their mutual good faith; for the Court cannot compel this proceeding, which however, to save the expense and vexation of delaying a ship perhaps ready for sea, is of frequent occurrence. The appearance being given, and bail offered, there is no further necessity for requiring the Marshal to arrest the vessel.

Proxies.

The practice of the *Irish* Court of Admiralty in respect of proxies, may here be briefly noticed. Formerly, according to the practice of the Ecclesiastical Courts, the proctors on both sides were bound to exhibit their proxies, as their authority for litigating the suit. At present the proctor for a promovent does not usually exhibit a proxy, unless the adverse proctor requires him to do so, in which case the Court will assign a time within which the proxy must be exhibited. But the proctor for an impugnant or for an intervenient, must, in all cases, exhibit his proxy on appearing in the cause. The form of a proxy is usually as follows:—

ADMIRALTY, IRELAND.

Richard Thompson,	} Know all men by these pre-
<i>Promovent</i> ;	
The brig <i>Victoria</i> of London,	
<i>Impugn.</i>	} &c., Owner of the brig <i>Victoria</i> , of London, the party Impug-

nant in this cause, do hereby nominate, constitute, and appoint *A. B.*, of the city of Dublin, proctor of said Court, my true and lawful proctor in this cause; and do hereby authorize him to do all necessary acts in the conduct of the same, and for so doing this shall be his sufficient authority.

Dated this 1st day of January, 1863.

JOHN JONES.

Present:

C. D.

This document is neither sealed nor stamped. It is "exhibited," that is, it is produced in Court before the Judge, and is left in the registry after it has been there presented. A fee is charged by the Registrar on the exhibition, and at the same time an entry of the exhibition is made by the registrar on the Acts of Court.

(2.) Appearance.

The impugnant may appear to defend the action, either at the return of the warrant, or afterwards; but unless he does so at the return, or on the next court day after, he will be in contempt, and must pay the costs of such default before he is allowed to appear. Appearance is effected by entering a rule on the Acts of Court, as follows:—

John Jones,	} The — day of —,
<i>Promovent</i> ;	
The <i>Alice</i> of London, and Cargo,	
<i>Impugn.</i>	} 18—, On which day Lee for the Impugn. appears and exhibits his proxy, and prays that the Promov- ent do libel with sureties, and so decreed, that the Promov- ent do libel with sureties within four days.

Appearance may be given either absolutely, as above, or under protest. The latter is the proper course when the impugnant objects to the jurisdiction of the Court.

It appears to have been formerly the practice, when a party appeared under protest, that he should, at the same time exhibit a declinatory exception, stating the grounds on which he objected to the jurisdiction of the Court to entertain the suit. At present the proper course would seem to be to await the statement of the promovent in his libel, and then to bring in the declinatory exception. Instances of this kind are of rare occurrence, and the practice in cases of objections to the jurisdiction does not seem to be completely settled. If the protest or the declinatory exception is allowed, the suit is dismissed; if overruled, the impugnant is assigned to appear absolutely, and if he fail to do so, the Court will proceed as in default of his appearance.

(3.) Intervention.

Any third party who may be affected by a suit in Admiralty, is at liberty to intervene therein for his interest at any time after the return of the warrant, and during the pendency of the suit. For this purpose an affidavit is exhibited, setting forth the interest of the party; and on the application of his proctor, grounded on the affidavit and the intervenor's proxy, leave is given to intervene, and a rule is entered accordingly. The affidavit is necessary to show the Court that the party is not a mere stranger, but has an interest in the suit. Notice is then given to the Marshal of the intervention, and the intervenor becomes a party in all the subsequent proceedings. The intervention suit may proceed along with the original suit, or independently of it. Both suits, if of a nature to be heard together, are decided at one hearing; but if of a different nature, there may be separate hearings and separate sentences. Sometimes the original and intervention suits are consolidated. Whatever be the circumstances of the case, the Court, by its discretionary power over the costs, will prevent the impugnant from being harassed by an unnecessary multiplicity of actions.

(4.) Proceedings in Default of Appearance.

On the warrant being returned the impugnant has till the next Court day to enter his appearance, and until then he will not be in default. Meanwhile his appearance is technically said to be "expected." If he fail to appear on that day, a rule is entered, "first default decreed." This goes on for three successive Court days. When the fourth default is incurred, the rule is entered "fourth default, liberty to libel; the non-appearance of the impugnant to be taken as a negative contest." The practice which till lately prevailed in the Court of Admiralty of *England* of correcting an article by virtue of the first decree, and issuing the *primum decretum*, has long since fallen into disuse in *Ireland*, though it is to be traced in the old Rule Books.

When the rule has been thus entered, the promovent may forthwith file his pleading; and as, by the terms of the rule, issue is supposed to be joined on it, he may, if it be a seaman's suit for wages, proceed to have it heard *summariissime*, and examine the witnesses, *viva voce*, in support of his case; as in a suit for wages, the evidence need not be taken *in scriptis*. In any other case he must examine *in scriptis*, according to the mode which will be hereafter described, and the case proceeds accurately through all the regular steps to final sentence. It is necessary to observe these legal formalities, because the impugnant may

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appear at any time, pending the cause, and might, if the proceedings were irregular, hold the parties liable for the consequences. The examination being concluded, and the rule for publication passed, the cause is assigned for hearing on the proctor's motion; and the case is stated and the proofs read by the promovent's counsel. If the case is sufficiently proved, the Court makes a decree for the promovent, and a sentence is made up accordingly. The rest of the proceedings are the same as those in a defended cause.

(5.) *Bail.*

Giving
bail.

When the impugnant has appeared absolutely he is at liberty to release his property by giving bail. For this purpose he serves notice on the opposite proctor of his intention to give bail, furnishing the names of the proposed sureties, who may be objected to if deemed insufficient; the objection may be made by notice, or *ore tenus*, before the Court when the bail is offered, and they may then be examined as to their sufficiency. The Court decides on the validity of all such objections. When bail is offered for a ship arrested at an outport, it is generally part of the rule for bail that the impugnant be at liberty to offer bail before a Commissioner of the Court for Bail. In Dublin, bail is perfected before the Judge, by producing the bail in Court, where the recognizance of bail is read over to and acknowledged by them. The recognizance is signed by the Judge when acknowledged, and then lodged in the registry, where it remains. It is in the following form:—

IN THE HIGH COURT OF ADMIRALTY OF IRELAND.

Peter Quin, owner of the brigantine <i>Coiner</i> , Promovent;	{	On the fifth day of Novem- ber, in the year of our Lord 1863, before the Honorable Thomas Frederick Kelly, Judge of the High Court of Admiralty of Ireland. On which day Richardson, proctor for the impugnant, pro- duced for sureties, <i>A. B.</i> of Grafton-street, in the city of Dublin, Merchant; and <i>C. D.</i> , of the town of Youghal, in the county of Cork, Shopkeeper, who, submitting them- selves to the jurisdiction of this Court, bound them and each of them, their and each of their heirs, executors, and administrators, jointly and severally, for the said impugnant, in the sum of £1,000 sterling, lawful money of the realm, unto <i>L. M.</i> , of Belfast, in the county of Antrim, Shipowner, to answer the suit commenced in this behalf; and to bring forth the said impugnant into judgment, to abide the hearing and adjudica- tion of this cause, whenever and wheresoever the same shall be assigned; and likewise to pay the said sum of £1,000, or whatever part thereof shall be ad- judged, together with all costs and expenses: and, unless they shall so do, they do hereby jointly and severally consent, that execution shall issue against them and each of them, their and each of their heirs, executors, and administrators, their goods and chattels, whereso- ever the same shall be found, to the value of the sum aforesaid, together with all costs and expenses attending such adjudication, as by the Court shall be decreed.
The Schooner <i>Wirralite</i> of Liverpool, Impugnant.		

Taken and acknowledged before } *A. B.*
me, the day and year aforesaid. } *C. D.*

Thomas F. Kelly,
Judge of the High Court
of Admiralty of Ireland.

The sum in which the sureties are bound is generally the estimated value of the ship and cargo, if the value is admitted by consent; or the estimated amount of the promovent's demand.

The value is frequently admitted upon the Acts of Court, which saves delay and expense, but if this cannot be done by consent, a commission of valuation may issue (see *Interlocutory Proceedings, Commissions*). The Court, will, in all cases, interfere to prevent the necessity of the impugnant being obliged to find bail in an unreasonable amount.

When sufficient bail has been perfected, the property arrested is discharged by release, on payment of the Marshal's charges. The impugnant is bound by the amount of bail in general; but it is probable that it would be reduced, if necessary, when excessive (See *The Duchesse de Brabant*, Swabey's, A. R. 264). On the other hand he cannot be called on at any subsequent period to bring in more than the stipulated security to answer the demands of the same party in the same cause. If the bail, though at first sufficient, are no longer so, the Court may, it seems, on motion to that effect, and summary proof of their insufficiency, order that the impugnant may give better bail.

Bail may be given in an interventional as in an original suit. If an intervention has taken place before the bail is perfected, bail is given both to the promovent and intervenient, for the property is not released without notice to both; and if the impugnant does not give bail to both, the intervenient may issue a second warrant, and so detain the property until bail has been given to his satisfaction.

Bail to the original action are not bound in a cause of appeal. When there is an appeal by the impugnant, a fresh stipulation must be given. (*The Berlin*, 3 Irish Jurist, 396).

When the property is bailed after arrest, a warrant of release must issue for its discharge, as the Marshal cannot discharge it without the authority of the Court. The release is in the following form:—

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth; To Clement Taylor, Esquire, Marshal of the High Court of our Admiralty of Ireland, and to his Deputy, whomsoever, greeting: Whereas the Honorable Thomas Frederick Kelly, Doctor of Laws, Judge of our said High Court of Admiralty of Ireland, in a certain civil and maritime cause, moved and prosecuted before him in our said Court, on behalf of John Jones, of the city of Dublin, Merchant, against the brig or vessel called the *Alice*, of London, her boats, rigging, tackle, apparel, and furniture, and the cargo now or lately on board thereof, rightly and duly proceeding, on the day of the date hereof, at the petition of the proctor of the said John Jones, hath decreed the said brig *Alice*, of London, her boats, rigging, tackle, apparel, and furniture, and also her cargo aforesaid, to be released from the arrest made by virtue of our former mandate, and the warrant which issued in this behalf, to be superseded (justice so requiring). We, do therefore, hereby strictly charge and command you, jointly and severally, that you forthwith release the aforesaid brig or vessel called the *Alice*, of London, her boats, rigging, tackle, apparel, and furniture; and also the cargo now or lately on board thereof, from the arrest made by virtue of our said warrant, and that you supersede the same, anything therein contained to the contrary in anywise notwithstanding; and herein fail not, at your peril. Given at Dublin, in our aforesaid Court, under the seal of the same for causes, the 20th day of November, in the year of our Lord 1863, and of our reign the 27th.

JOHN ANSTER, LL.D., Registrar.

Robert C. Lee, Proctor,
2, Inns-quay, Dublin.

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Libel.

(6.) *The Libel, or Petition.*

As soon as an impugnant has appeared absolutely, or the fourth default has been incurred by his non-appearance, the promovent is at liberty to file his pleading, and so of an intervenient likewise.

It was formerly the practice to require that the promovent should give security in all cases, to pay, if defeated, the defendant's costs; to ratify the acts of his own proctor, and to appear in judgment as often as the practice of the Court should require; and this is the "libelling with sureties" mentioned in every rule made on an appearance; but in modern practice security is required from a promovent only when he is bound to give security for costs, as residing out of the jurisdiction, or for some other special reason.

Within four days after the impugnant's appearance, the promovent is bound by the rule then entered to file his pleading, which is still called a "libel," though in form it is a petition. This is not to be confounded with the "Act on Petition" of the former English practice, which has never been used in *Ireland*, where the causes were always by way of "plea and proof." According to the ancient system of the Court, in seamen's suits the libel was always in form a summary petition, and is still so styled. And interlocutory applications against the proceeds of sales made by the authority of the Court, and still remaining subject to its jurisdiction, are frequently made by petition, as hereafter will be mentioned. (See *Interlocutory Proceedings, Petitions.*) But the promovent's first pleading is in substance a libel, and is hereinafter so termed. The practice

Its form.

of late years has abridged the prolix and cumbersome form theretofore in use, and adopted the style of a petition addressed to the Judge, setting forth the promovent's case, both in fact and in law. It is divided into paragraphs called articles (which should be numbered consecutively), concluding with a prayer of such relief as the party deems himself entitled to, and of general relief. The old form of libel has never been formally abolished, but it has been allowed to fall into disuse, with the approval of the Judge, and by common consent of the practitioners of the Court. The libel, or petition, as every other pleading, must be signed by an advocate of the Court, and by the proctor who exhibits it.

The following form will give an example of the present style of a libel in the Court of Admiralty of Ireland:—

IN THE HIGH COURT OF ADMIRALTY OF IRELAND.

A. B., and Others,
Promovents;
The Brig W. and cargo,
Impugnant.

To the Honorable Thomas
Frederick Kelly, Doctor of
Laws, Judge of the High
Court of Admiralty of Ireland.

The petition of A. B., C. D., &c., the promovents in this cause, humbly sheweth:—

1. That, &c.
2. That, &c.

Also—That all the matters aforesaid occurred upon the high seas, and within the jurisdiction of this Court, and that the ship W. and her cargo, the party impugnant in this cause, have been arrested by the warrant of the Court, at your petitioner's instance, and are now in custody, and subject to its jurisdiction (or, and having been released on bail, the sureties for the same respectively are now subject to the jurisdiction of the Court), and that all the premises were and are true.

Wherefore your petitioners pray right and justice, and that [here follows the statement of the relief sought].

And that justice may in other respects be sufficiently administered in the premises.

G. H.,

[Proctor's signature.]

L. M.,

[Advocate's signature.]

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Petition
for wages

A seaman's petition for wages is prepared in the shortest possible style, referring to a schedule in which the time of hiring, the period of service, the rate of wages, the amount earned, the credits allowed, and the balance due, are all set forth in a tabular form. The Court requires a schedule to be annexed to any pleading in which that form conduces to brevity and clearness.

If the pleading is exhibited by an intervenient (in which case it is properly called an intervenient allegation), the same form is followed, and the same rules observed, as in a pleading by an original party. An allegation is generally inserted that the party has duly intervened by leave of the Court.

The essential particulars of the promovent's or intervenient's case should all be stated in the first instance. The pleading of each party should state not only the legal ground on which he relies, but the facts which support it; for the rule which rejects *extra articulate* evidence, i.e. evidence of facts not pleaded, is still strictly adhered to. It is not necessary, however, to set forth every minute concomitant circumstance to which the witnesses may on examination depose; but every essential fact must be so pleaded as to give the opposite party an opportunity of defence. In consequence of this rule, which originated at a time when the evidence was all taken *in scriptis*, and the witnesses were examined from the pleading, the Admiralty pleadings are sometimes of a length which, when the evidence is given *viva voce*, appears unnecessary.

Mode of
pleading
facts.

Documentary evidence is not, in general, set forth; but the party relying on such proof briefly refers to it by his pleading.

In bottomry cases the instrument of hypothecation is usually deposited in the Registry, at the time when the warrant is obtained.

The petition, or libel, when prepared and engrossed, is brought into Court by the proctor, who exhibits it before the Judge, praying an answer thereto in four days; it is then handed to the Registrar, who files and retains it in the Registry of the Court. The usual time allowed for answering any pleading is four days; but the period is frequently extended by consent, or for reasonable cause. When the libel has been filed, a copy of it is taken out by the impugnant, in order to prepare his defence: it is not necessary to serve a copy of any pleading on the opposite party.

Exhibit-
ing the
libel.

(7.) *Exceptions.*

The impugnant may, within the time allowed for answering, except to the admissibility of the libel, altogether or in part, for any defect in law. If he does so, the proctor of the impugnant serves, in the first instance, a notice on the promovent's proctor, apprizing him of the objection, and requiring him to expunge or reform the objectionable articles. If he agrees to do so, they are struck out or amended; the Registrar marks the alteration in the pleading filed, and both parties amend their copies accordingly. But if the notice is not complied with, application may be made to the Court by the objecting party, by motion, on notice to the opposite proctor, to expunge or amend the pleading. The question is then argued before

Notice of
objections.

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the Judge, who decides it, and makes such ruling respecting the costs as he deems just. Objections to pleadings are not encouraged by the Court. If the pleading is not objected to, or if the objection is over-ruled, the pleading is said to be admitted to proof.

Objections to a pleading are sometimes classed under different titles, as peremptory exceptions, declinatory exceptions, dilatory exceptions, &c.; but it seems needless to distinguish them thus, for whatever be the style of them, they are all reducible to two classes—exceptions of form and exceptions of substance. And whether called an exception or not, if a party raises by his pleading a defence which is substantially an exception, the Court will require that it be decided before the merits of the case are gone into, although there may be also a defence upon the merits.

(8.) *Amendment.*

Amend-
ment.

The amendment of pleadings is very liberally allowed, and it may be made at any stage of the case, but always on such terms as to costs and otherwise, as the Court deems just. If the proposed amendment is one of mere form, it is usually made by consent of the proctors.

(9.) *Personal Answers.*

Personal
answers.

The promovent may, if he pleases, require the personal answer on oath of his adversary to any of the statements of the libel. This can only be done before the impugnant has filed his defence. The practice in personal answers is very similar to that of the Ecclesiastical Courts; they may be enforced by process of contempt, excepted to for insufficiency or redundancy, and used or not used in evidence as in the Ecclesiastical practice. They are hardly ever resorted to in the Admiralty Court of *Ireland*; I have not known, in sixteen years experience of its practice, a single case in which a personal answer was required, and it does not seem necessary to pursue the subject farther.

(9.) *Affirmative and Negative Contests.*

Contest-
ing suit.

The libel being admitted to proof, if no objection be made, or being made is over-ruled, the impugnant contests the libel, either affirmatively or negatively, by an affirmative contest or by a negative contest. The affirmative contest admits all the statements of the libel without further proof; and the case may be forthwith set down for hearing on the libel and affirmative contest; but the impugnant may still argue upon the legal consequences of the admitted facts, and submit the deduction therefrom to the Court. The negative contest puts the opposite party on proof of his whole case. The libel may be admitted as to part, and denied as to part, by contesting such and such articles affirmatively, and the rest negatively. The Court will, however, allow the substitution of either contest, and the substitution of the other, on such terms as may be just. An interventional allegation is contested in the same manner as the pleading of an original party. Issue being thus joined, the impugnant is at liberty to plead his case. But as issue is joined by the contest, the usual practice is that the impugnant contests his adversary's pleading negatively, and hands in his own defensive allegation at the same time, unless for some special reason he is allowed to enter the contest without prejudice to his right to plead at a future day.

(10.) *Defensive Allegation.*

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Impug-
nant's de-
fence.

The impugnant's defensive pleading is styled a "Matter Contrary and Defensive." It contains the statement of the legal ground of the impugnant's case, and must allege the facts on which he means to rely, as otherwise he could not give evidence of them. It is in the following form, or to the like effect:—

IN THE HIGH COURT OF ADMIRALTY OF IRELAND.

A. B.,
The ship *Calcutta*, of London,
Promovent; }
Impugnand. }
A Matter Contrary and De-
fensive to the petition ex-
hibited in this cause, on
the part of the promovent
therein, which matter con-
trary and defensive, C. D., the proctor of the party
impugnand in this cause, doth, on behalf of his party,
allege and propound as follows:—

1st, &c.

2nd, &c.

Therefore this party prays right and justice, and to be dismissed from further observance of justice, with costs.

L. M., Advocate.

G. H., Proctor.

The matter contrary is exhibited in the same manner as the libel; the impugnant's proctor prays an answer thereto in four days, and the rule is entered on the Acts accordingly.

The promovent may except, or may join issue. The exceptions, if any, are governed by the same rules as already mentioned respecting exceptions to a libel. Issue is joined on the matter contrary, affirmatively, or negatively, as already mentioned.

In seamen's suits for wages the defence is not made in the form of a pleading, but of a notice, to the effect that the impugnant party will, in addition to the negative contest given to the summary petition, rely at the hearing on the grounds of defence which are set forth in the notice. This notice is settled by counsel; it is signed by the proctor and counsel, and has the effect of a regular pleading, from which it differs only in form.

Defence in
seamen's
suits.

As the promovent may require the impugnant's personal answer on oath to the libel, so the latter may require the personal answer of the former to the defensive allegation. But this proceeding is quite unknown in practice.

(11.) *Additional Articles.*

In general the pleadings conclude with a matter contrary and defensive, upon which issue is joined by a negative contest. But if the defensive allegation requires any reply, or if there be any additional matter to allege, the promovent has a right to file, as of course, one set of additional articles to the libel, either by way of reply, or of supplement. If that is done, the impugnant has the usual term of four days to join issue on them; and they are subject to exception, &c., as an original pleading.

Additional
matter or
reply.

So likewise the impugnant has also a right to file one set of additional articles by way of rejoinder or of supplement, and the promovent has four days to answer them.

It may happen that one set of additional articles will not suffice to bring the entire case of the promovent or of the impugnant before the Court. But if extra additional articles are desired, the party who proposes to plead them must first obtain the leave of the Court, on a special motion on notice, in which he must satisfy the Court that they are proper and requisite. If this be shown, they may be filed, the opposite party having four days to answer them.

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conclud-
ing the
cause.

When the pleadings are terminated, and issue is joined on the last of them, the cause is said to be at issue.

There is no formal conclusion of the cause, but the pleadings are held to be concluded when the proctor whose turn it is to give an answer to the last pleading filed, contests it without applying to file additional articles. When the cause is at issue, the parties proceed to prepare their proofs.

(12.) *Terms Probatory.*

Evidence.

When a cause is at issue, on a negative contest, the evidence is next to be adduced, and this, by the ancient practice of the Court, is done by producing the depositions of the witnesses, taken on an examination *in scriptis*; but is sometimes done by an examination *viva voce*, or by affidavits. But either of the latter modes can only be adopted by consent of the parties. These and the following observations in this section do not apply to seamen's suits for wages, in which the evidence may be taken *viva voce*, such being the ancient practice of the Court, even if the suit be undefended.

In other undefended cases, the evidence must be taken *in scriptis*, since no consent to take it otherwise can be obtained.

When evidence is taken *in scriptis*, it is done either by the Registrar in Dublin, or by a Commission in the country, or abroad. The latter mode has fallen into disuse, owing to the delay and expense attendant on it; but it may still be resorted to, and is sometimes necessary.

When the witnesses are to be examined *in scriptis*, the promovent, on the Court day next after his libel has been exhibited, prays a term probatory; that is, that a period may be assigned him within which he may produce his witnesses to be sworn, for it is said that they may be examined after its termination, though such is not the usual practice. If they are to be examined elsewhere than in Dublin, he prays a Commission for their examination.

The term probatory, by the practice of the Court, lapses, *i.e.* expires, on the next Court day. This is thrice repeated, so that the three probatory terms would lapse on three successive Court days, if not continued, as they may be, for such reasonable time as is necessary for the production of the witnesses. If the witnesses cannot be produced within the term, the examinant party may be restored to a term probatory; but as the application is to the discretion of the Court, it will only be granted on such terms as may seem just. If the witnesses are examined by Commission, the last term probatory is continued until the return of the Commission.

In defended cases the probatory term assigned to one party is common also to the other; that is, each party may, during the term, produce witnesses not only to the matters contained in the last allegation he has exhibited, but to those in all his preceding allegations, if any.

And as the promovent may pray a term probatory, so may an intervenient or an impugnant; and the term probatory prayed by one party is alike common to all the others.

(13.) *Examination of Witnesses.*

Examina-
tion in
scriptis.

When the examination of witnesses *in scriptis* takes place in Dublin, the evidence is taken by the Registrar, who examines the witnesses apart, and reduces their testimony to writing. When the

witnesses are about to be examined in a defended case, a notice is furnished to the opposite proctor, containing a list of the names of the intended witnesses, with an enumeration of the articles of the pleading to which each witness is to be examined. This enables the proctor to whom it is given to frame his interrogatories for cross-examination, as he may know, from the pleading, what the evidence of the witness is expected to be. Such notices are reciprocally given on both sides, when both parties examine in chief. The witnesses are then produced before the Judge, and sworn or affirmed (as the case may be) in open Court.

The same practice is observed when the witnesses are examined by Commission, except that the witnesses are then produced before the Commissioner, and not before the Court.

When the witness is sworn in chief, an oath is also administered to him to answer to interrogatories on the part of the party who has the right to cross-examine him. The witness then attends before the Registrar (or Commissioner), and is examined by him, from the articles of the pleading, secretly and apart. His depositions to each article are written down; they are then read over to him; and any alteration or addition which he requires is made. He then signs the depositions, and they are folded up and kept by the Registrar (or Commissioner), who does not allow any one to inspect them until publication has passed.

The witnesses examined by one party may be cross-examined by the other, on interrogatories, which are prepared by the cross-examinant party, and furnished by him to the Registrar or Commissioner. They are not disclosed to the witnesses until examination, nor to the party who examines in chief until publication has passed. The depositions to the interrogatories are in like manner read to the witness; altered, as he thinks fit; signed by him when complete; folded up and kept by the Registrar or Commissioner.

When the direct and cross-examination are concluded, or the adverse party has apprized the Examiner that he will not cross-examine, the witness is taken before the Judge, and the depositions being produced, the witness is asked whether he wishes to add to, or alter what he has deposed. If he does, the desired addition or alteration is made. If not, the deposition is complete. This is called repeating the witness. But this is not done when the examination is taken by commission. The depositions remain with the Registrar until publication has passed. If taken before a Commissioner, they are returned with the commission.

When the examination has concluded, the promovent's proctor, on the next Court day, prays publication, which is then decreed, unless at the prayer of the opposite party sufficient cause to stay it be shown. If the examination has been by commission, the promovent's proctor prays aperture of the commission, which is decreed; and on the next Court day he prays publication of the evidence.

When publication has passed, copies of the depositions are given out.

It is open to either party to impeach the credit of the opposite witnesses by a pleading called an exceptive allegation, either *contra personam* objecting to the general character of the witness, or *contra dicta*, objecting to his evidence. The former can only be made before, and the latter after publication; and these allegations may be proceeded upon as other pleadings; a term pro-

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Evidence.

The same practice is observed when the witnesses are examined by Commission, except that the witnesses are then produced before the Commissioner, and not before the Court.

When the witness is sworn in chief, an oath is also administered to him to answer to interrogatories on the part of the party who has the right to cross-examine him. The witness then attends before the Registrar (or Commissioner), and is examined by him, from the articles of the pleading, secretly and apart. His depositions to each article are written down; they are then read over to him; and any alteration or addition which he requires is made. He then signs the depositions, and they are folded up and kept by the Registrar (or Commissioner), who does not allow any one to inspect them until publication has passed.

The witnesses examined by one party may be cross-examined by the other, on interrogatories, which are prepared by the cross-examinant party, and furnished by him to the Registrar or Commissioner. They are not disclosed to the witnesses until examination, nor to the party who examines in chief until publication has passed. The depositions to the interrogatories are in like manner read to the witness; altered, as he thinks fit; signed by him when complete; folded up and kept by the Registrar or Commissioner.

When the direct and cross-examination are concluded, or the adverse party has apprized the Examiner that he will not cross-examine, the witness is taken before the Judge, and the depositions being produced, the witness is asked whether he wishes to add to, or alter what he has deposed. If he does, the desired addition or alteration is made. If not, the deposition is complete. This is called repeating the witness. But this is not done when the examination is taken by commission. The depositions remain with the Registrar until publication has passed. If taken before a Commissioner, they are returned with the commission.

Repeating witnesses.

Publica-
tion.

Excep-
tions to
witnesses.

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batory may be assigned, answers taken, and witnesses examined on them, as in the principal cause. The practice of the Court of Admiralty in *Ireland* was, in these respects, similar to that of the Ecclesiastical Courts, but exceptive allegations to witnesses have fallen so much into disuse, that it seems incompatible with the nature of this statement to pursue these inquiries into further details.

As to the mode of compelling the attendance of witnesses, see p. 17 of this Statement.

(14.) *Hearing.*

Mode of
conduct-
ing a hear-
ing.

The cause being assigned for hearing, the parties attend by their proctors and advocates. If the cause is undefended, the senior advocate for the promovent states his case, and the junior calls his proofs, and reads his exhibits. The Judge then delivers judgment, or assigns a future day for so doing.

If the cause is defended the parties attend, and according to the practice almost uniformly adopted of late years, the respective proctors enter on the Acts of Court a consent to have the evidence taken *viva voce*. The case then proceeds like a suit at common law; the promovent's counsel states his case and examines his witnesses; the intervenient's counsel, if there be an interventional suit, does the same. The impugnant's advocate states his case, examines his witnesses, and speaks to evidence, and the promovent's counsel replies. In a derelict suit, where the Crown is nominally the promovent, the intervenient being substantially the plaintiff has the general reply. Objections to the evidence, if any, are taken *viva voce*, and ruled by the Judge, as at common law.

The practice of hearing causes on affidavits has been long established in the Court of Admiralty of *England*. In the Court of Admiralty of *Ireland*, in a very few instances, causes have been heard on affidavits by consent, but the practice has not been generally adopted, probably not having been found satisfactory.

The maxim of the Civil Law, on which much of the law of the Admiralty Court is founded, is, that the cause is never concluded against the Judge. Acting on this principle, the Court sometimes requires supplementary proof, by affidavit or otherwise, to satisfy itself respecting some particular facts before it will proceed to judgment. As this is entirely discretionary with the Judge, there can be no fixed rule laid down on the subject.

In *England* the 3rd & 4th Vic., c. 65, sec. 7, has given the Court of Admiralty power to take evidence *viva voce* in open Court, or *viva voce* before a Commissioner (sec. 8), and the attendance of witnesses and production of documents may be compelled by subpoena (sec. 9). The Court has also power in a contested suit to direct an issue (sec. 11), and new trial (secs. 13, 14). The Court of Admiralty of *Ireland* has none of these powers.

The procedure of the *Irish* Court of Admiralty is still subject to the inconvenient rule that two witnesses, or suppletory evidence with one witness, are essential to the proof of every material fact, a rule which tends greatly to increase the expense of the hearing of a cause.

Nautical
Assessors.

In any case of collision, involving questions of nautical skill, the Judge selects an assessor, or usually two assessors, to assist him with their advice in nautical matters. The assessors are not sworn; they merely give their opinion on such questions as the Judge refers to them for his information; but he is not bound by their answers,

nor does he submit to them any question of law, nor any question of fact which does not involve one of nautical skill. A fee of two guineas per diem is paid to each assessor, which is taxed in the costs of the successful party.

And, as the evidence must go before the Court of Appeal (if an appeal be interposed), it has become usual to employ, by consent, a shorthand writer, to take notes of the evidence, whose fees are also taxed as costs in the cause. But this practice is not compulsory.

In causes of damage, the present practice of the Court is, in the first instance, to decide the question, which of the colliding vessels, if either, was to blame. The amount of damages is left for a future inquiry, at which, of course, the assessors are not needed.

The case being closed, the Court either proceeds to deliver judgment, or assigns a day for so doing. The Registrar enters the note of the judgment, when given, on the Acts; and the proctor of the successful party proceeds to make up, by the next Court day, the formal decree or definitive sentence of the Court. In some cases of small amount, the sentence, if not likely to be needed, is not made up, the defeated party submitting to pay the decreed sum.

(15.) *References.*

References, conducted according to the *English* practice, are not usual in *Ireland*. References have occasionally been made to the Registrar, to compute the amount of wages and subsistence-money in a seaman's suit; but references are never made to the Registrar and merchants, as in *England*. The Judge himself investigates all the accounts and vouchers, and decides all questions arising on them; and when in a cause of collision, in which the evidence has been taken at the hearing, the damage is pronounced for, the inquiry of the amount is taken before the Judge himself, who hears counsel and takes the evidence of witnesses, as in the hearing of any other case, and then makes his decree according to the result. The definitive sentence is then made up, as it would be after the original hearing in any other case.

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hand
writer.

Refer-
ences
taken by
the Judge
in *Ireland*.

(16.) *Definitive Sentence.*

The sentence, or final decree, is prepared by counsel, usually before the Court day next after the judgment, and a copy of the draft is submitted to the opposite proctor, if the suit is defended.

If the parties differ about the sentence in a defended suit, the Judge settles the terms of it at the next sitting of the Court. If they agree, or if the impugnant has not appeared, the promovent's proctor engrosses the sentence, and submits it to the Judge for his approval. If approved, it is signed and promulgated by the Judge in Court; if not, it is amended. There is, properly, but one decree in each suit; yet, if there be intervenients in the cause, the Court may make up separate sentences. Where there are cross actions, there are also separate sentences, unless it has been consented, as it usually is, that the cross action shall abide the result of the original cause.

Sentence
settled by
the Court.

The definitive sentence, now much abridged from the former prolixity of such documents, recites the pendency of the suit, the hearing, and the decision of the Judge; and then contains the decree of the Court and the judgment as to costs. It sometimes reserves further directions, as these may be necessary to carry the decree into execu-

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tion. The Court has the power of reviewing and varying its decrees in respect of any error arising from a defect of knowledge or information upon a particular point in the case; the error should, however, be brought before the Court with all possible diligence.

Reviewing
and
varying
Decrees.

II. PROCEDURE FROM THE DEFINITIVE SENTENCE TO FINAL EXECUTION.

(1.) *Appeal.*

An appeal may be interposed in either of two ways.

1. The party objecting may appeal in the Acts of Court at the time when the sentence is signed.
2. He may appeal before a notary, *in scriptis*, after the sentence has been made up and signed.

From
what
orders
appeals.

In the Admiralty Court no appeal lies from any interlocutory decree, but an appeal may be brought from a definitive sentence, or from an order having the force of a definitive sentence, though no regular sentence has been actually made up upon it. This is what is called in the books, appealing from a *gravamen irreparabile*, as distinguished from an appeal from an interlocutory judgment. It seems, though the point does not appear to be fully decided, that there cannot be an appeal from the Judge's taxation of costs.

By the 23rd and 24th Geo. III., cap. 14, *Irish*, and the 8th Article of the Act of Union, 40th Geo. III., cap. 38, *Irish*, appeal lies from the Court of Admiralty of *Ireland* only to the High Court of Delegates in *Ireland*.

If the appellant do not proceed with his appeal, the successful party may obtain an order on motion and enter a rule accordingly, for "liberty to proceed according to past Acts;" whereupon the sentence will be put into execution. But if the appellant proceeds with his appeal, he prays from the Judge "Apostles," *i.e.*, letters dimissory, signed by the Judge, shortly stating the case and the sentence, and declaring that he will, in the room of further apostles, transmit all the proceedings. A copy of the whole proceedings, beginning with the affidavit to ground the warrant, and including the evidence and sentence, is then made out at length by the Registrar. This copy is called the transmiss. Whatever copies have been given of the pleadings and documents in the cause, all must be copied again in the transmiss, and this transmiss is supposed to be again copied by the Registrar of the Court of Delegates, who charges for such copy accordingly.

The apostles are lodged with the Secretary of the Lord Chancellor; the Chancellor names the Judges-Delegates, and a Commission under the Great Seal is then prepared and issued from the Chancery Office.

In ordinary cases the Delegates are three of the Puisne Judges, and two civilians. Two, at least, of the Delegates must accept the commission; when they have done so, the Court of Delegates issues its inhibition, under its seal, to the Judge of the Admiralty, commanding him to stop all further proceedings in the case; the same instrument contains a monition to send up the proceedings (which is done by the transmiss) and a citation to the respondent. The inhibition is served on the Judge, the Registrar, and the respondent; and the certificate and affidavit of

service are returned to the Registrar of the Court of Delegates.

The party appellant, if the impugnant below, must give fresh security in the Court of Delegates to prosecute the suit, pay the costs, if awarded against him, appear in judgment, and confirm the acts of his proctor. But if the judgment be ultimately in favour of the promovent, the original bail remain liable to him in the cause on which the appeal was made.

An appellatory libel is then filed in the Court of Delegates, setting forth the institution of the original cause, the sentence, the appeal, and the commission, and praying that the sentence may be reversed. It must be signed by counsel. It is a merely formal document, and apparently of no practical use. A negative contest is given to it by the respondent, and the cause is then at issue in the Court of Appeal.

Each party to the appeal prepares a statement of his case (which must be printed), and of the reasons on which he relies for reversing or upholding the sentence of the Court below. These cases must be signed by an advocate on each side; and when ready, the parties interchange them. Copies of these printed cases are furnished to each of the Judges-Delegates before the hearing.

The Delegates having fixed a day, at their own convenience, to hear the appeal, the parties must attend. The party appellant always begins and replies. The Court having heard counsel, pronounces its judgment, and may affirm, reverse, or alter the sentence, with or without costs; but as a general rule the costs follow the result of the appeal. The Court of Appeal may either retain the cause for execution, or remit it to the Court of Admiralty for execution there. Evidence may be given on the appeal which was not given in the Court below; and if newly discovered evidence can be adduced to a fact not in the knowledge of the party at the original hearing, the Court of Delegates will even allow the original pleading to be amended in order to let in such evidence. The Court of Appeal may hear such evidence *viva voce*, and in a cause of damage, may be assisted by nautical assessors selected by itself.

If the appellant fail to prosecute his appeal, the Court of Delegates will pronounce the appeal deserted, condemn the appellant in costs, and remit the cause to the Court of Admiralty for execution.

When the sentence is affirmed it remains the sentence of the Court below, being only dormant during the appeal.

When a cause is remitted, the proctor in whose favour the Court of Delegates has decreed, procures letters remissory from that Court, which issue under its seal; he exhibits them in the Court of Admiralty, and prays liberty to proceed according to past acts. This being entered on the Acts, the Court of Admiralty will proceed to execution of its sentence. When a cause is retained, all further proceedings in the Admiralty Court are at an end, and the process of execution issues from the Court of Delegates. In general the cause is remitted with such alterations, if any, in the definitive sentence of the Court below as the Delegates may think proper.

The decision of the Court of Delegates is final, there being no appeal therefrom as a matter of right; but a petition may be presented to the Queen in Council for a Commission of Adjuncts, if the Court of Delegates be equally divided; or for a Commission of Review. This petition is referred to the Lord Chancellor for his advice, who hears counsel thereon, and advises Her Majesty ac-

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Bail on
appeal.

Appella-
tory libel.

Printed
cases.

Hearing of
appeal.

Letters
Remis-
sory.

Appeal,
how inter-
posed.

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cordingly. (See *Von Stentz v. Comyn*, 12 Ir. Eq. Rep. 622; *Kelly v. Thewles*, 2 Ir. Chan. Rep. 5, 10.)

(2.) *Execution.*Dr.
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mission of
appraise-
ment and
sale.

When an appeal has been decided, or when no appeal is interposed, the Court of Admiralty proceeds to the execution of its decree. When sentence has been given in an undefended suit, or in a cause in which the *res* has not been bailed, a commission of appraisement and sale issues in execution of the sentence, directed to the Marshal, commanding him to appraise and sell the property. The Marshal may execute it by his substitutes, but is always answerable for the due performance of the duty. The appraisement is first made, and the sale then takes place. If the property sells for less than the appraised amount, the sale is not confirmed at the usual time, but further opportunity is given for further biddings, and advertisements are inserted in the newspapers, stating the sum appraised and the sum bid. No sale under the Court ever takes place without a commission for that purpose. The proponent's proctor having applied for and obtained it, places it in the hands of the Marshal, who proceeds in person to the place where the ship or other property is, circulates advertisements of the sale, makes out an inventory of the property, and settles proper conditions of sale. He also appoints the auctioneer. The property is then sold on the day appointed, and the highest bidder is declared the purchaser. A deposit is paid by the purchaser. The Marshal then returns the commission, with a certificate of the execution endorsed, holding the deposit for the purchaser, in case the purchaser shall be afterwards outbid. The Marshal's account of expenses is not settled until the sale is ultimately confirmed. If it be necessary to remove the property, a commission of removal is sometimes conjoined with the commission of sale.

Confirm-
ing sale.

The sale being completed, a proctor appears for the purchaser, and on the return of the commission moves that the sale be confirmed to him. A conditional order is then made, confirming the sale, unless cause be shown within four days, which order is served on the proctors in the cause, and on the Marshal. If no cause be shown, or no other bidder appears, the sale is confirmed, on an affidavit of the service of the order. If any other bidder offers, by his proctor, an advance of price, according to a per centage fixed by the practice of the Court, and pays the deposit, the sale will not be confirmed to the first purchaser, unless he bids a still higher price; but a like conditional order will be made, and the deposit of the first purchaser will be returned in full. And so of subsequent bidders, the same practice being observed whenever the bidding is opened.

Opening
biddings.

The biddings being concluded, the sale is confirmed, and the Marshal thereupon executes a bill of sale to the purchaser, at the purchaser's expense, which, by the rule of the Marshal's office, must not exceed six guineas. The balance of the purchase-money is paid over by the purchaser to the Marshal when the bill of sale is executed; the Marshal then furnishes his bill of fees and expenses, which being taxed and allowed, he pays over the remainder to the Registrar of the Court.

(3.) *Proceedings against Bail.*

If the property has been released on bail, the next step is to compel them to pay in the sum for

which they are security. For this purpose a notice is served on the bail to bring in the amount; and if they neglect it, a monition is prayed for, a conditional order issues for a monition, and if sufficient cause against it be not shown, an absolute order. The monition then issues, and if the bail neglect it, they will be in contempt and liable to be attached.

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Monition.

It is fortunate, however, that proceedings never run to that length in practice; for although the Court is said to have the power of committing bail, it is questionable how it could deal with a recusant party.

In *England*, the 20th sec. of 3 and 4 Vic., cap. 65, directs all gaolers to receive into custody prisoners committed by the Court of Admiralty. But that enactment seems to imply that the Court required the aid of the Legislature in that respect.

In *Ireland* there is no corresponding statute; and although the arrest for contempt might not be illegal, it is very doubtful whether any gaoler would be bound to receive the prisoner. In all cases that I have known, the bail have brought in the amount stipulated before the process for contempt has issued.

Arrest.

The Court, in determining the liability of bail, is governed by the same principles as the Courts of law and equity, and exercises its equitable as well as its legal jurisdiction. Bail are only bound to the extent of their obligation, and to the parties in the action to which they have given bail; and their responsibility extends only to the actual value of the property for which they are responsible.

(4.) *Taxation of Costs.*

Costs must be taxed before the payment of them can be enforced; costs between party and party only are the subject of taxation. The cause being at an end, the Marshal prepares his bill of unpaid charges and expenses, and the proctors on both sides their bills of costs. The Marshal's bill is usually investigated by both parties, and any difference respecting it is brought before the Registrar, and ultimately, if necessary, before the Judge, who finally adjusts it. The costs are taxed and certified by the Registrar, who is the taxing officer of the Court. Any objection to his taxation is brought before the Judge. It is not deemed necessary to enter into the particulars of taxation of costs in this statement.

Costs, how
taxed.

The costs being finally settled, the Judge signs the bill of costs, which is thus confirmed; and upon an order of the Judge the Registrar pays out of the fund in Court (if any) such costs as are made chargeable against it by the decree. He also deducts his own fees. The balance of the fund is ultimately paid to the proctors of the parties entitled, on production of proper powers of attorney, which, with receipts for the amount, are lodged in the Registry. If there be no fund in Court, the costs can be enforced only as a personal demand.

The *English* practice of requiring bail for latent demands, where payment was made out of Court within a year and a day from the *primum decretum*, if ever it prevailed in *Ireland*, has become entirely obsolete.

III. INTERLOCUTORY APPLICATIONS.

(1.) *Security for Costs.*

The Court of Admiralty exercises the power of compelling security for costs, on the same principles and on the same occasions as other Courts of

Security
for costs,
when ap-
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justice. The application for such security should be made at the commencement of the suit; it is too late to make it after the impugnant has taken any step in the cause. The usual practice is for the impugnant's proctor, after he has appeared, to call on the promovent's proctor, by notice, to give security for costs. If the notice is complied with, the names of the proposed sureties are furnished in reply, or a sum agreed on by the parties is paid into Court as security. If not complied with, a notice is served of a motion to stay the proceedings until security for costs shall be given. The motion is grounded on an affidavit stating the circumstances relied on, but the impugnant is not obliged to swear to merits. The amount of security is usually £70, but a larger amount may be fixed at the discretion of the Judge.

An intervenient may be compelled to give security for costs, as an original promovent. No security for costs can be required from the impugnant, when the proceeding is *in rem*.

How
given.

Security for costs is given by a stipulation of the same nature as that which is given when property arrested is bailed; but it is not usual to join a second surety in a security for costs. The stipulation is enforceable by monition and attachment.

(2.) Tenders.

Tenders,
how made.

If the impugnant appears, and deems the claim of his adversary well founded in law, but excessive in amount, he may, without any previous notice, tender a certain sum to the promovent on the Acts of Court, and pay that sum into the Registry, with Registrar's poundage thereon, undertaking at the same time to pay the promovent's costs hitherto incurred. A tender may, in like manner, be made to an intervenient. Unlike a tender at law, a tender in the Admiralty Court cannot be made till after the action has been brought, and the impugnant has appeared.

The effect of a tender is to admit, to that extent, the promovent's demand. If the tender be accepted, the suit is at an end; if it be rejected, the case proceeds. The acceptance or rejection, as the case may be, must be by act in Court, and is entered on the Acts accordingly. The object of a tender being to prevent litigation, the Court may give the costs of the litigation to the impugnant, if it ultimately pronounces for the tender; but this general rule is not always applied, especially in salvage cases, in which tenders are most frequent, but in which the sufficiency of the tender is generally a question of doubt.

If the tender is accepted, the money is paid out to the promovent, as at the conclusion of a suit, and the costs being taxed and paid according to the undertaking, a release issues, and the impugnant's property is restored to him.

A tender may be made generally to several sets of claimants, and the party making it is not bound to apportion it. The proctor of each party to whom it is made must declare upon the Acts whether he accepts it or not. If both accept it, the case will go on to a hearing between them, but the impugnant is discharged from further obligation. If one or both reject it, the case must proceed to a hearing between the party making the tender and the party or parties refusing it. The costs, in all these cases, are in the discretion of the Court. But the party to whom a tender is made, is always held entitled to his costs up to the time of making it.

In cases where the Court overrules a tender, the promovent is usually decreed the costs of

suit. When it pronounces for a tender, the Court, if it deem the litigation improper, may order the impugnant's costs to be paid out of the sum which has been lodged by him in Court.

(3.) Motions.

Motions are made before the Judge in Court, either by a proctor, or an advocate. The class of motions made by the proctors are those which relate to the formal steps of a suit, such as exhibiting pleadings and praying answers thereto; giving affirmative or negative contests; making or refusing tenders; applying for commissions; motions relative to the unopposed payment of money, &c. These motions are sometimes as of course, sometimes on notice. Advocates' motions are always moved on notice, and are of various kinds, according to the nature of the suit and the object of the application. The orders made are either absolute or conditional, as in the Courts of Common Law; and, as in those courts, it is usual in the Admiralty Court to state in the notice that costs will be asked for, if it is intended to ask for them. A notice of motion given on one court day is movable the next court day, provided that there be at least one clear day between the service of the notice and the day on which it is moved. The regular Court days are Mondays, Wednesdays, and Fridays.

All affidavits upon which the motion is grounded should be mentioned in the notice by their dates, and the names of those who swear them, and should be filed before the notice is given. Affidavits may be filed in answer and in reply, and may be used though filed after service of the notice, provided copies of them are furnished in sufficient time to the opposite party.

The service of a notice of motion must be made at the registered office of the proctor to whom it is addressed.

The time generally allowed for showing cause against a conditional order is four days from the service of it on the party against whom it is made.

The party against whom a conditional order has been obtained shows cause against it.

(4.) Consolidation of Actions.

The Court does not encourage multiplicity of suits against the same *res*; and it will, at any time after the return of the warrant, on the application of the defendant, by motion or notice, consolidate actions brought against the same vessel; as in case of separate suits by owners of a ship and owners of her cargo for their several losses, or separate suits brought by the same crew for their wages. In the last mentioned case the Court would consolidate the actions *ex mero motu* without even waiting for an appearance on the part of the defendant.

After the consolidation the proceedings go on as if the plaintiffs had originally brought a joint action. But if it be necessary the Court will disjoin the actions, and allow them to proceed separately.

(5.) Monition to bring in Freight.

The arrest of a cargo on board a ship also arrested by the warrant of the Court, is not considered an arrest of the freight. A special proceeding is necessary to compel the party liable to pay the freight to bring it into Court. For that purpose an affidavit is made, setting forth in

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motions.

Affidavits
to ground
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Suits
when con-
solidated.

Payment
of freight
into Court.

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whose possession the freight is, and on motion grounded on that affidavit, a conditional order is obtained that the person in whose hands the freight is, should, within four days after service of the order, pay it into Court, with an account of it, verified by affidavit.

If no sufficient cause is shown against it, this conditional order is made absolute. If the absolute order is not obeyed, the promovent moves for a conditional order for a monition to bring in the freight and account; and if no sufficient cause be shown against the latter order, it is made absolute and the monition issues.

Monitions
in general.

Monitions issue in many other cases, for enforcing compliance with the interlocutory orders of the Court. The monition is, in substance, a writ issued under the seal and by the authority of the Court, commanding the party against whom it is issued, to do, or refrain from doing, some particular thing. A monition never issues as of course, but always on a motion on notice. The monition is directed to the Marshal, and is served by him, or by his substitutes nominated for the purpose. It is served personally, when personal service can be effected, but may be served otherwise if the Court shall so direct. An affidavit of the service, with the Marshal's certificate of the execution, are returned along with the monition. Disobedience to a monition is deemed a contempt, and is punishable by attachment and payment of costs.

(6.) *Commissions of Removal, &c.*

Commis-
sion of re-
moval.

A Commission of Removal issues on application to the Court on affidavit, which states the circumstances which appear to render it desirable that a ship or cargo under arrest of the Court should be removed. It is directed, like all other commissions, to the Marshal, and is executed by him or by his substitutes, for whom he is answerable. The vessel, &c., is insured before removal, in the name of the Marshal, who charges the expenditure in his bill. When the commission is executed it is returned with the Marshal's certificate of the due execution.

Of
unlivery.

A commission for unlading a cargo (called a commission of unlivery), issues in the like manner, and is executed in the like way. The ground of the application is always the perilous or perishable condition of the cargo, which the Marshal, by virtue of the commission, causes to be discharged and stored.

Of
appraise-
ment.

A commission of appraisement issues in the like manner, whenever it is necessary to ascertain the value of property the subject of the suit, as sometimes happens in salvage cases, when the parties cannot agree upon a valuation, and in causes of damage. The Marshal in executing this commission makes an inventory of the property, and selects a valuator or two valutors, according to the terms of the commission, by whom a valuation is made out. The valuation when made is returned with the commission.

Sale of
perishable
property.

If the property be of a perishable nature, a commission of appraisement and sale may issue during the progress of the suit, and the property may be sold thereunder as after the definitive sentence.

The issuing of a commission is always the subject of a special motion to the Court, grounded on an affidavit. The issuing of the commission may therefore be objected to by either party to the suit; but being an act of the Court, it will bind both parties, if no objection be made.

Commissions for the examination of witnesses have been already noticed, p. 13.

(7.) *Citation.*

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end's
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attend-
ance of
witnesses.Form of a
citation
for a wit-
ness.

If a witness on being called on to attend and being tendered his expenses, refuses to attend, the party who requires his testimony may apply to the Court for a citation, which is a process of the Court in the following form:—

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, to Clement Taylor, Esquire, Marshal of the High Court of our Admiralty of Ireland, and to his Deputy whomsoever, greeting: Whereas the Honorable Thomas Frederick Kelly, Doctor of Laws, Judge of our High Court of Admiralty of Ireland, lawfully constituted and appointed, in a certain civil and maritime cause, moved and prosecuted before him in our said Court, on behalf of *A. B.*, owner of the Schooner, *Content*, of Dundalk, against the party of the Brig *W.*, of Liverpool, rightly and duly proceeding on the day of the date hereof, at the petition of the proctor of the said *A. B.*, alleging that John Jones and James Thompson are necessary witnesses to prove the contents of the libel and petition given in and admitted on behalf of the said *A. B.*, has decreed the said John Jones and James Thompson to be monished, cited, and called to judgment at the time and place underwritten, and to the effect hereinafter expressed (justice so requiring). We do therefore strictly charge and command you, jointly and severally, that you omit not by reason of any liberty or franchise, but that you monish and cite, or caused to be monished and cited, peremptorily and personally, the aforesaid John Jones and James Thompson, that they appear before us, or our aforesaid Judge, or his Surrogate, at the Admiralty Court, adjoining the Four Courts, Dublin, on Monday, the 16th day of November, 1863, between the usual hours for hearing of causes, then and there to take the oath by witnesses usually taken, and to testify the truth of what they know in this behalf, and further to do and receive as to justice shall appertain, and that you duly certify us or our said Judge, or his Surrogate, what you shall do in the premises, together with these presents. Given at Dublin, in our aforesaid Court, under the seal of the same for causes, the day of , in the year of our Lord One thousand eight hundred and sixty-three, and of our reign, the twenty-seventh.

JOHN ANSTER, Registrar.

Wm. Richardson, Proctor,
11, Beresford-place, Dublin.

If the witness, after due service of the citation, disobeys it, he may be punished by attachment. And so if a witness on being sworn refuses to be examined, a monition may issue against him, and an attachment founded thereon.

(8.) *Petitions against Proceeds.*

It frequently happens that, before the proceeds of a sale are paid out, claims are made against them by third parties. In *England* it seems that the practice in such cases formerly was, to enter an action and extract a warrant against the proceeds, as in a proceeding against the original *res*. But in *Ireland* the practice has been, not to extract a warrant, but to file a petition to the Court, setting forth the claim of the petitioner and the sale of the property, and praying that the petitioner might be paid his demand out of the proceeds in the Registry to the credit of the cause. This petition may be counter-pleaded by an answer, and when issue is joined on it, the question is heard by the Court as if it were an original suit, and an order is made on the hearing. The class of cases usually brought forward in this way are demands of material-men, wages, and claims of owners, who having had no interest in resisting the suit, appear in the sequel to obtain payment to themselves of any residue that may be left.

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PROCEEDINGS IN AN ACTION IN PERSONAM.

The foregoing account of a suit *in rem* will sufficiently explain the mode of proceeding in a suit *in personam*. When a warrant issues in a suit *in personam*, it is for the arrest of the impugnant, who may be taken into custody by the Marshal by virtue of it. On bail being given, the proceedings go on to sentence, as in an action *in rem*, and the condemnation and costs are paid by putting the stipulation in force against the sureties.

But such a mode of proceeding, though still legally maintainable in *Ireland*, has been long disused. It has already been observed that though the Marshal has power to arrest the impugnant, it is doubtful whether he can be committed to prison; and whenever the property of the impugnant can be attached to answer the demand, there is no inducement to proceed against his person by a remedy neither safe nor effectual. Instances have been known of suits *in personam*, where the only remedy was against the person, as in case of assaults committed at sea; but the proceeding *in personam* has become obsolete in *Ireland*, as it had done in *England*—(see *The Clara*, Swabey's A. R. 3)—and it may be said to be confined to the few exceptional cases in which the Court may still exercise a corrective jurisdiction over the masters and mates of merchant ships and to the statutory proceedings in cases of apportionment of salvage and appeals of salvage, under the Merchant Shipping Act, 1854, both which are to be presently mentioned.

When a collision has taken place, and an action is brought against one of the colliding vessels, her owners may bring a cross action for the same collision against the other vessel *in rem*; but if the latter has been lost, so that the proceeding *in rem* would be ineffectual, the cross action must be brought, if at all, against her owners *in personam*, if resident within the jurisdiction of the Court. But the Court cannot compel the defendants in the cross action to give bail, so that if sentence be ultimately given for the original plaintiff, he can recover only by monition and attachment.

It is not likely that such a proceeding would be resorted to in the present state of the law in *Ireland*; and in a very recent instance, where the original defendant was advised that a cross action would lie, it was deemed advisable rather to forego the right than incur the risk of proceeding *in personam*, there appearing to be no safe and sufficient means to enforce the judgment of the Court.

Apportionment of Salvage under the Merchant Shipping Act, 1854.

No proceeding for the apportionment of salvage under the 468th section of this statute has as yet taken place in the Court of Admiralty of *Ireland*, but the practice adopted in *England* in such cases, as hereinafter mentioned, will most probably be followed as closely as possible, whenever the case may arise.

Appeals from Awards of Salvage.

The compulsory jurisdiction given to two justices in salvage cases, by the Merchant Shipping Act, 1854, has been extended by the Merchant Shipping Amendment Act, 1862, to all cases in which the value of the property saved does

not exceed £1,000; and the provisions of the statute in that respect are now applicable, whether the salvage service has been rendered within the limits of the United Kingdom or not. The parties may agree to refer the amount of salvage, however large, to the justices; and in a case beyond the jurisdiction of justices, but referred to their arbitration by the parties, the award is final. If the proceeding be compulsory, and the sum in dispute exceeds £50, the party dissatisfied with the award may appeal. Notice of the intention to appeal must be given to the justices within ten days after the date of the award. Proceedings on the appeal must be commenced in the Admiralty Court within twenty days of the date of the award. (Merchant Shipping Act, 1854, sec 464.)

The appellant, within the twenty days, files, in the Court of Admiralty, an affidavit of the facts of the case, and by his proctor moves for a monition to the magistrates, the respondent, and the receiver of wreck. The monition issues, if the affidavit be sufficient; and is then personally served on the parties to be monished. It calls on them to show cause why the award should not be set aside, with costs. It is returned into the Court, as monitions are in other cases.

A monition may likewise be obtained to compel the justices to transmit a copy of the proceedings before them, and of their award and certificate, as required by the 465th section of the Merchant Shipping Act, 1854.

The Court will take bail for the property, if not already released by the receiver, and will thereupon release the property salvaged.

On the respondent entering an appearance, the appellant presents a petition. He may plead new matter and adduce new evidence, as well upon the merits of the case as the value of the property. (*The Aurora*, 1 W. Rob. 322.) The respondent likewise may file his responsive allegation and adduce his evidence, and the case will be heard on the old and new proofs.

The appeal is a rehearing, and the same parties begin and reply, as in the original matter. The case being heard on both sides, the Court pronounces its decree, affirming, altering, or reversing the award of the justices. The costs, as in all other cases, are in the discretion of the Court.

PROCEEDINGS IN THE HIGH COURT OF ADMIRALTY OF ENGLAND.

I now proceed to present an outline of the proceedings in suits in the Instance Court of Admiralty in *England*, in order to afford an occasion of comparing its procedure with that of the Court of Admiralty of *Ireland*, following the same divisions of the subject as in the preceding part of this statement.

As no prize jurisdiction is now exercised in *Ireland*, I shall pass over the Prize procedure in *England*, as not within the scope of the present statement.

I. FROM THE INSTITUTION OF THE SUIT TO THE DEFINITIVE SENTENCE.

(1.) Warrant.

The present practice in the Court of Admiralty of *England* is regulated principally by the Rules and Forms of 1859, which are intended whenever reference is made to a rule or form by number, in the subsequent part of this statement.

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England.
Præcipe.

To institute a suit in the Admiralty Court of England, the plaintiff's proctor—which term includes also an attorney or solicitor entitled to practise in the Court, or the party himself, if conducting his cause in person (Rule 1)—fills up a form (No. 1) called a præcipe, stating the nature of the case, the plaintiff's name, address, and description, and the name and nature of the property proceeded against. If the cause be *in personam*, the præcipe specifies the name, address, and description of the person to be cited. It specifies also the amount for which the action is brought, and an address, within three miles of the General Post-office of London, at which it shall be sufficient to leave all instruments and documents in the cause. This præcipe is filed in the Registry, and the action is then entered in the Cause Book. All causes are numbered in the order in which they are instituted, and the distinguishing number of the cause is written in the margin of the several documents in the cause. (Rule 6, and Directions for filling Forms.)

In Ireland there is nothing analogous to this institution of a cause, nor can a party sue there but through a proctor.

In England if the cause is *in rem*, the proctor may, on filing the præcipe and an affidavit, take out a warrant for the arrest of the *res*. (Rule 8.)

Affidavit.

The affidavit should set forth the name and description of the plaintiff, the nature of the claim, the name and nature of the property to be arrested, and that the claim has not been satisfied. (Rule 9.) Specific directions are prefixed to the forms for describing the name and nature of the property, and the name of the party, if a firm.

In Ireland the affidavit to lead a warrant is substantially to the foregoing effect, but there is no precise rule on the subject.

In England the 10th Rule directs that in a cause of necessities and in a cause of wages the national character of the vessel proceeded against shall be stated in the affidavit; and that in a wages cause against a foreign vessel notice of the institution of the cause shall be given to the Consul of the state to which the vessel belongs, if there be one resident in London; and that a copy of the notice shall be annexed to the affidavit.

In Ireland notice is usually, but not necessarily, given to the Consul of a foreign state when a vessel of that state is sued; and the notice when given is alleged and proved in the cause; but it is not annexed to the affidavit.

In England the 11th Rule directs that in a cause of bottomry, the bottomry bond in original, and if in a foreign language a notarial translation thereof, shall be produced for the inspection and perusal of the Registrar; and a copy of the bond, or of the translation thereof, certified to be correct, shall be annexed to the affidavit.

In Ireland the original bond is lodged in the Registry when the warrant is obtained, and if it is not in English, a translation is lodged along with it; but it is not required to be a notarial translation, nor is any copy of the bond or translation annexed to the affidavit.

In England by the 12th Rule it is declared that in a cause of restraint, and in a cause of possession, it shall not be necessary to obtain a decree of the Court for the issue of the warrant, but the warrant shall be allowed to issue on the requisite affidavit being filed. Forms of affidavits in causes of restraint and of possession are annexed to the Rules of 1859. (Nos. 2 and 3.)

In Ireland the fiat of the Judge is essentially necessary for the issue of a warrant in any case, and there is no special form of affidavit.

But these Rules (10, 11, and 12), are only directory; for the Registrar may, in any case, if he think fit, allow the warrant to issue, although the affidavit may not contain all the required particulars. In a wages cause he may also dispense with the service of the notice, and in a cause of bottomry with the production of the bond. (Rule 13.)

When the affidavit is made and the other rules are complied with, the warrant is made out and sealed. All instruments and orders, or decrees of Court, office copies, and other documents issued from the registry, are to be sealed with the seal of the Court. (Rule 182.) In Ireland office copies or interlocutory orders are not sealed, but only attested by the Registrar.

In England every warrant or other instrument requiring to be served by the Marshal, must be left by the proctor taking out the same with a præcipe in the Marshal's office. (Rule 168.) The warrant must be served by the Marshal or his substitute. (Rule 14.) The service of any instrument by the Marshal is verified by his certificate. The service of any instrument by a proctor, his clerk or agent, is to be verified by an affidavit. Every instrument must be served within six months from the day on which it bears date, otherwise the service thereof shall not be valid. (Rule 166.)

The form of a warrant in the Admiralty of Ireland has been already given, that of a warrant in the Admiralty of England is as follows:—

No. 5.—WARRANT.

In the High Court of Admiralty of England.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To the Marshal of the High Court of our Admiralty of England, and to all and singular his substitutes, greeting. Whereas a cause of

has been instituted in our said Court on behalf of
against in the sum
of pounds. We therefore hereby command
you to arrest the said , and to keep
the same under safe arrest, until you shall receive further
orders from us; and to cite all persons, who have, or
claim to have, any right, title, or interest in the said
, to enter, within six days from the
service hereof (exclusive of the day of such service), in
the Registry of our said Court an appearance in the
said cause. We further command you to warn all the
said persons that, if they do not enter an appearance as
aforesaid, the Judge of our said Court will proceed to
determine the said cause, or make such order therein as
to him shall seem right.

Given at London, under the Seal of our said Court,
the day of in the
year of our Lord one thousand eight hundred
and .

E. F., Registrar.

Warrant

£

Taken out by .

The proctor taking out the warrant must, within six days from the service thereof, file the same in the Registry. (Rule 14.) On filing any instrument or document, the proctor must state, in writing, on a printed form called a Minute, the nature of the instrument or document filed, and the date of the filing thereof. (Rule 160.) A record of all minutes, and of all causes instituted and appearances entered, and of all decrees and orders of the Court, are entered in a book kept in the registry, called the "Minute Book." (Rule 161.)

The practice of filing minutes and keeping a minute book has never been introduced in Ireland.

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Minute
Book.

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Statement

Caveat
Warrant
Book.

In *England* the defendant may, if he pleases, prevent the arrest of his property without any previous arrangement with his adversary; for if he anticipates that an action will be instituted against it, his proctor may fill up a præcipe, undertaking to enter an appearance in any cause that may be instituted against the property (of which he states in the præcipe the name and nature), and to give bail in such cause, to an amount stated in the præcipe; or to pay such an amount into the Registry. This præcipe being filed, the officer enters a caveat in the "Caveat Warrant Book," (Rule 56), which caveat remains in force for six months from the date of its entry. (Rule 174.) It may, however, be withdrawn by the person by whom, or on whose behalf it was entered (Rule 175), or set aside by the Judge on motion. (Rule 176.)

The entry of a caveat does not absolutely prevent the issuing and execution of a warrant; but in order to protect his party against liability to costs, it is the duty of the plaintiff's proctor, at instituting his cause, to search the Caveat Book; if he finds a caveat there against the issue of the warrant, and thinks the bail offered is sufficient, he then serves upon the caveator a copy of the præcipe on which the cause was instituted; and after service returns the original præcipe to the Registry, where it is filed. The caveator should then, within three days from the filing of the præcipe, if the sum for which the cause is instituted does not exceed the amount for which he has undertaken, give bail in such sum, or else pay the amount into Court. (Rule 58.) If he fail to do so, after the expiration of twelve days from the filing of the præcipe, the plaintiff may proceed as in case of default; may file his proofs, and set down his cause for hearing. (Rule 59.) If he succeed in his case, the amount of his claim may be enforced by monition and attachment against the caveator, and by arrest of the property, if it be, or thereafter shall come, within the jurisdiction of the Court. (Rule 60.)

The warrant may, however, be taken out in any case, notwithstanding the entry of a caveat; but the party at whose instance any property is arrested in respect of which a caveat has been entered, shall be liable to be condemned in the costs and damages, unless he can show good cause for having taken out the warrant. (Rule 61.)

In *Ireland* there is no analogous practice. The warrant may issue whenever the Judge gives his fiat, and may then be executed, unless the arrest be prevented by arrangement between the parties. (See statement of the *Irish* Procedure, "Warrant," Appendix A, p. 19.)

If when any property is under arrest, a subsequent cause is instituted against the same property a second warrant is not necessary for the further arrest of it, but the proctor in such subsequent cause may, on filing in the registry a præcipe and affidavit, take out a citation *in rem* (Form No. 10), and cause a caveat against the release of the property to be entered in the "Caveat Release Book" (Rule 53), which caveat continues in force for six months. A party delaying the release of any property shall be liable to be condemned in costs and damages, unless he show to the satisfaction of the Judge, good reason for having done so. (Rule 54.)

NO. 10.—CITATION IN REM.

In the High Court of Admiralty of England.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of

the Faith. To the Marshal of the High Court of our Admiralty of England, and to all and singular his substitutes, greeting. Whereas a cause of has been instituted in our said Court on behalf of

against in the sum of pounds. And whereas the said is now under arrest by virtue of a warrant issued from the Registry of our said Court. We therefore hereby command you to cite all persons who have, or claim to have, any right, title, or interest in the said , to enter, within six days from the service hereof (exclusive of the day of such service), in the Registry of our said Court an appearance in the said cause. We further command you to warn all the said persons that, if they do not enter an appearance as aforesaid, the judge of our said Court will proceed to determine the said cause, or make such order therein as to him shall seem right.

Given at London, under the seal of our said Court the day of in the year of our Lord, one thousand eight hundred and

E. F., Registrar.

Citation *in Rem.*
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Taken out by

In *Ireland* the præcipe and citation *in rem* are both unknown. According to the practice in *Ireland* the subsequent plaintiff intervenes in the original cause, and serves notice on the Marshal not to release the *res* until the intervenient's claims are satisfied; this prevents the release. If the *res* has been already sold, the intervenient is still protected, for the Court would not pay out any fund in Court without notice to all the intervenients. A second warrant is not issued, unless where the second claim is made before the first warrant has been returned; in that case it is necessary, since the first claim may be satisfied, and the first warrant never be executed. But the Court, if it thus grant a second warrant, generally does so on the terms that if the *res* be arrested by the first warrant, no costs but those of an intervention shall be allowed in respect of the second warrant.

If the *res* has been released, a second warrant may indeed be granted; but in that case the second is, in fact, an original suit.

In *England*, if the plaintiff desires to retain any property which he has reason to believe will be removed out of the jurisdiction of the Court, before the warrant can be executed, he may, with the warrant take out, at his party's expense, a detainer. Such detainer may be served by the proctor, his clerk, or agent; and shall not continue in force for more than three days from the date thereof, exclusive of the day of such date, nor after service of the warrant. (Rule 15, Form 8.)

In *Ireland* this practice is unknown, the warrant itself being the only means of detaining the property.

In *England* the practice of the last two centuries has virtually dispensed with the exhibition of proxies. Before the Rules of 1859, the Court might have required the proctor to state the names of the parties for whom he appeared; but, according to the new practice, the names of the parties on whose behalf the suit is instituted or defended, appear in the præcipe to institute the cause, and the præcipe to enter an appearance.

For the present practice in *Ireland* as to proxies, see *Irish* Procedure, p. 6.

(2.) Appearance.

In case a caveat has been entered, the defendant appears and gives bail according to his undertaking. But in ordinary cases the defendant's proctor enters an appearance by filling up

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AND PRO-
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Caveat
Warrant
Book.

E. F., Registrar.

Citation *in Rem.*
£

Taken out by

In *Ireland* the præcipe and citation *in rem* are both unknown. According to the practice in *Ireland* the subsequent plaintiff intervenes in the original cause, and serves notice on the Marshal not to release the *res* until the intervenient's claims are satisfied; this prevents the release. If the *res* has been already sold, the intervenient is still protected, for the Court would not pay out any fund in Court without notice to all the intervenients. A second warrant is not issued, unless where the second claim is made before the first warrant has been returned; in that case it is necessary, since the first claim may be satisfied, and the first warrant never be executed. But the Court, if it thus grant a second warrant, generally does so on the terms that if the *res* be arrested by the first warrant, no costs but those of an intervention shall be allowed in respect of the second warrant.

If the *res* has been released, a second warrant may indeed be granted; but in that case the second is, in fact, an original suit.

In *England*, if the plaintiff desires to retain

any property which he has reason to believe will be removed out of the jurisdiction of the Court, before the warrant can be executed, he may, with the warrant take out, at his party's expense, a detainer. Such detainer may be served by the proctor, his clerk, or agent; and shall not continue in force for more than three days from the date thereof, exclusive of the day of such date, nor after service of the warrant. (Rule 15, Form 8.)

In *Ireland* this practice is unknown, the warrant itself being the only means of detaining the property.

In *England* the practice of the last two centuries has virtually dispensed with the exhibition of proxies. Before the Rules of 1859, the Court might have required the proctor to state the names of the parties for whom he appeared; but, according to the new practice, the names of the parties on whose behalf the suit is instituted or defended, appear in the præcipe to institute the cause, and the præcipe to enter an appearance.

For the present practice in *Ireland* as to proxies, see *Irish* Procedure, p. 6.

(2.) Appearance.

In case a caveat has been entered, the defendant appears and gives bail according to his undertaking. But in ordinary cases the defendant's proctor enters an appearance by filling up

Second
warrant.

Citation
in rem.

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AND PRO-
CEDURE.Dr.
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a *præcipe* (Rule 35, Form No. 19), which he files in the Registry, having previously served a copy of it on the opposite proctor; and an appearance is thereupon entered for him in the Cause Book. The *præcipe* states the name, address, and description of the party for whom the appearance is entered. The appearance may be entered under protest, if the proctor intends to object to the jurisdiction of the Court. If the party does not enter an appearance within six days from the service of a warrant or citation, he must pay all costs that have been occasioned by his default; and it appears that these costs may be enforced immediately upon the appearance being given. (Rules, 37, 38.)

In *Ireland* the practice appears substantially the same. See *Irish Procedure*, Appendix A, p. 8.

Preliminary Acts.

Prelimi-
nary acts.

By the 62nd Rule, in causes of damage, unless the Judge shall otherwise order, each proctor must, before any pleading is given in, file a "preliminary act," containing a statement of certain specified particulars of the collision. These preliminary acts are to be delivered into the Registry sealed up, and shall not be opened, save by order of the Judge, until the proofs are filed.

If both proctors consent, the Judge may, if he think fit, order the preliminary acts to be opened, and the evidence to be taken thereon, without its being necessary to file any pleadings. (Rules 63, 64.)

This proceeding, which was first introduced by the Rules of 1855, is regarded by the *English* Court as of great importance. (*The Inflexible*, Swabey, A. R. 33.) But no analogous practice has ever been adopted in *Ireland*. The Court may suspend proceedings in the principal cause until bail has been given in the cross cause (A. C. Act, 1861, sect. 34); this cannot be done in *Ireland*.

(3.) *Intervention.*

The practice of intervening, by leave of the Court, appears to have been altered in *England* by the Rules of 1859; and now, when a second action is brought, it is commenced by a citation *in rem*, as already described, on behalf of the intervenient. The practice in *Ireland* as to intervention has already been noticed. (Appendix A, p. 8.)

(4.) *Proceedings in Default.*

Change of
practice in
England
on de-
faults.

The practice in *England* in causes *in rem*, in regard to defaults, first decrees, perishable monitions, and affidavits as to the perishable state of the property, has been entirely repealed by Rule 18, and is ordered to be as follows:—After the expiration of twelve days from the filing of a warrant, if an appearance has not been entered, the proctor may, on filing in the Registry a *præcipe*, take out a notice of sale, to be advertised by him in two or more public journals, to be from time to time appointed by the Judge (Rule 19.) After the expiration of six days from the advertisement of the notice of sale, if an appearance has not been entered, the proctor files in the Registry an affidavit, to the effect that the notices have been duly advertised, with copies of the journals annexed, as also such proofs as may be necessary to establish the claim, and a notice of motion to have the property sold. (Rule 20.) If, when the cause comes before the Judge, he is

satisfied that the claim is well founded, he may order the property to be appraised and sold, and the proceeds to be paid into the Registry. If there be two or more causes by default pending against the same property, it is not necessary to take out a notice of sale in more than one of the causes; but if the proctor in the first cause do not, within eighteen days from the filing of the warrant in that cause, take out and advertise the notice of sale, the proctor in the second or any subsequent cause may take out and advertise the notice of sale, if he shall have filed in the Registry a citation *in rem* in such second or subsequent cause. (Rules 21, 22.)

Within six days from the time when the proceeds have been paid into the Registry, the proctor in each cause shall, if he has not previously done so, file his proofs in the Registry, and have the cause placed on the list for hearing. (Rule 23.)

In *Ireland*, except in the case of perishable property, the sale does not take place until after the hearing. If the property be perishable, a special commission may be issued, on a proper affidavit made for that purpose, and the property may be sold under it; the proceeds remain in Court subject to the rights of the party obtaining the commission, and of such others as may appear.

In *Ireland* the party who has first instituted the cause has the conduct of the proceedings; but if an intervenient has appeared he may, on notice to the promovent, and sufficient cause shown, obtain such order as the latter, with due diligence, might have obtained for the furtherance of the cause.

In *England*, in a cause of possession, after the expiration of six days from the filing of the warrant, if an appearance has not been entered, the proctor may, on filing in the Registry a *præcipe*, take out a notice of proceedings in the cause, to be advertised by him in two or more public journals, to be from time to time appointed by the Judge. After the expiration of six days from the advertisement, if an appearance has not been entered, the proctor should file in the Registry an affidavit to the effect that the notice has been duly advertised, with copies of the journals annexed, as also such proofs as may be necessary to establish the claim, and should have the cause placed on the list for hearing. If, when the cause comes before the Judge, he is satisfied that the claim is well founded, he may pronounce for the same, and decree possession of the vessel accordingly. (Rules 24, 25, 26.)

In a cause
of posses-
sion, on
defaults.

In *Ireland* it is not usual to advertise thus in the public journals; but the Court frequently requires special notice to be given to any person who may be affected by the proceedings in a cause of possession, in order that he may, if he pleases, appear in the suit. This, however, is an indulgence; for the warrant of arrest and process of citation are, in legal strictness, notice to all concerned.

(5.) *Bail.*

A proctor may at any time obtain the release of any property by paying into the Registry the sum in which the cause has been instituted. (Rule 48.) But if he prefers to repossess himself of the property without such actual payment, he gives bail to the action.

For this purpose his proctor fills up a *præcipe* (Form No. 20), with the names, addresses, and descriptions of the proposed sureties, files that

Practice
in England
as to giv-
ing bail.JURIS-
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document in the Marshal's office, and receives from him a notice of bail (Form No. 21), a copy of which is served upon the adverse proctor. (Rule 30). After the expiration of twenty-four hours from the time when the notice of bail has been so served, if the Marshal has reported as to the sufficiency of the sureties, the proctor is entitled to take up the Marshal's report. (See Form No. 22). He then files in the Registry a præcipe with the notice of bail and the Marshal's report, and is informed at what hour the sureties may attend. (Rule 40). The bail attend at the Registry accordingly, and sign and acknowledge the bail-bond there. (Rule 41). The bond is somewhat to the same effect as a stipulation for bail in the *Irish* Court. The form of the bail-bond in the Court of Admiralty of *England*, given by the Rules of 1859, is as follows:

No. 24.—BAIL-BOND.

In the High Court of Admiralty of England.

The [state title of cause], Master.

Whereas a cause of has been instituted in the High Court of Admiralty of England on behalf of against [and against inter-vening]. Now therefore we and hereby jointly and severally submit ourselves to the jurisdiction of the said Court, and consent that, if he the said shall not pay what may be adjudged against him in the said cause with costs, execution may issue forth against us, our heirs, executors, and administrators, goods, and chattels, for a sum not exceeding pounds.

(Signatures of Sureties).

This bail-bond was signed
by the said
and the Sure-
ties, the day of
18

Before me,

[To be signed before the Registrar, or one of the Clerks in the Registry, or before a Commissioner].

Bail may also be taken in the country under a special commission, or before standing commissioners to be appointed by the Judge; but in every such case the sureties shall justify (Rule 42); that is, they shall severally swear that they are worth more than the sum in which bail is to be given, after payment of their debts. (Form No. 28).

Bail may be taken in the country under a special commission (Form No. 26), or under a standing commission (Form No. 27).

A bail-bond taken before a commissioner, appointed under a special or standing commission, is not to be filed in the Registry until after the expiration of twenty-four hours from the time when a notice, containing the names and addresses of the sureties and of the commissioner before whom the bail was taken, shall have been served upon the adverse proctor; and a copy of the notice, verified by affidavit, is filed with the bail-bond. (Rule 43). The bail may be objected to for insufficiency, but not after the Marshal has reported in their favour.

A commissioner, appointed under a special or standing commission, shall not take bail on behalf of any person for whom he or any person in partnership with him is acting as proctor, attorney, solicitor, or agent. (Rule 44). The delays required by the rules in regard to the taking of bail may be dispensed with by consent of the proctors in the cause. (Rule 45).

Money may be paid into Court in lieu of bail. The bail being perfected, or the money paid into Court, the bail or money thenceforth represent

Money in
lieu of
bail.

the property bailed, which is altogether released from that action, and the defendant is entitled to have his property released. This can only be done by the authority of the Court, by virtue of a release (Rule 46, Form 30), issued under the seal of the Court, on a præcipe lodged for that purpose. (Form No. 29). The release is lodged with the Marshal (Rule 52), together with a præcipe containing instructions for executing it; the Marshal's fees are then paid, and the property is thereupon released by him.

In *Ireland* no præcipe is lodged, but the release is made out and issued at once to the Marshal, who if there be no intervenient in the cause, releases the property on payment of his fees. But if there be an intervenient, the Marshal gives him notice of the release, and will not release the property if the intervenient does not consent thereto.

In *England*, a proctor at whose instance any property has been arrested, may, before appearance, obtain the release thereof, by filing a præcipe to withdraw the warrant. (Rule 47). In *Ireland* the warrant cannot be withdrawn after the arrest, but the promovent may consent to the release of the res.

A proctor may obtain the release of any property by paying into the Registry the sum in which the cause has been instituted. (Rule 48). The same is the practice in *Ireland*, but the proctor thus releasing property must also pay or undertake to pay the costs.

In *England*, cargo arrested for the freight only may be released by filing an affidavit as to the value of the freight, and by paying the amount of the freight into the Registry. Release of cargo.

In *Ireland* it is not the practice to arrest cargo for the freight; the payment of the freight into Court is enforced by monition, as already mentioned. (*Irish* Procedure, Appendix A, p. 16.)

In salvage cases the plaintiffs have a right to have the value of the property ascertained before it leaves the hands of the Court, because the amount of their remuneration depends on it; in such cases, therefore, the amount of value must be agreed on or an affidavit of value filed before the property is released. (Rule 50.) The valuation, unless objected to, is binding on all parties. But the salvors, if dissatisfied with the value stated, are at liberty to have the property appraised. This is done by the Marshal or his substitutes, unless the Judges shall otherwise order. (Rule 124, 1859.) They examine and survey the property, and their written statement of the value is transmitted to the Court as the return to the commission. The Court exercises a discretionary power over the costs of these proceedings, and over the appraisement itself. The practice in *Ireland* is the same. Valuation

A similar valuation is sometimes made in causes of damage by collision, in order to ascertain the value of the damaging vessel, the liability of the owner of which is in general limited to the value of that vessel and the freight, by the Merchant Shipping Act, 1854, s. 504, which extends to both *England* and *Ireland*.

A proctor who shall have filed a bail bond in the sum in which the cause has been instituted, or paid such sum into the Registry, and, if the cause be one of salvage, shall have also filed an affidavit as to the value of the property arrested, shall be entitled to a release for the same, unless there be a caveat against the release thereof outstanding in the "Caveat Release Book." (Rule 51.) This Caveat Release Book is not known in *Irish* prac- Caveat against release.

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DICTION,
PRACTICE,
AND PRO-
CEDURE.

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CEDURE.

Dr.
Town-
end's
Statement

Former
mode of
pleading,
now
abolished.

Present
pleadings.

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PRACTICE,
AND PRO-
CEDURE.

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Statement

Conclu-
sion.

tice, having been first introduced by the Rules of 1859.

Rule 53 provides that a proctor in a cause, desiring to prevent the release of any property under arrest, shall file in the Registry a *præcipe*, and thereupon a caveat against the release of the property shall be entered in a book to be kept in the Registry, called the "Caveat Release Book." A party delaying the release of any property by the entry of a caveat, shall be liable to be condemned in costs and damages, unless he shall show to the satisfaction of the Judge good and sufficient reason for having so done. (Rule 54.)

These Rules better effectuate the purpose which in *Ireland* is attained by notice to the Marshal against the release.

(6.) *Pleadings.*

The next step is to file the plaintiff's pleading. The modes of pleading used before the Rules of 1859, have been thereby abolished (Rule 65), and there is now but one mode of pleading. The first pleading is called the petition, the second the answer, the third the reply, and the fourth the rejoinder. The subsequent pleadings, if any, are called as heretofore in causes by act on petition. (Rule 66.) The pleadings must be divided into short paragraphs called articles, and signed by counsel and proctor. (Rule 67.) The plaintiff's petition should be filed within twelve days from the defendant's appearance. The defendant's answer should be filed within twelve days from the filing of the answer. Six days from the filing of the previous pleading are allowed for filing any subsequent pleading. (Rule 68.) The same rules apply to the pleadings on a protest as to the pleadings in a cause on its merits.

In *Ireland* the promovent has four days after appearance to file his libel; the impugnant has four days to answer. And so each party has four days to answer each additional allegation, if any.

In *England* it is not necessary in the first pleading to aver the jurisdiction of the Court, or the identity of the property proceeded against. (Rule 69.)

In *Ireland* the libel or petition always contains an averment that the cause of action arose within the jurisdiction of the Court. In strictness that allegation is denied by the negative contest, and the promovent is put on proof of it, but the Court will not take objections to its own jurisdiction, which the party concerned has not thought proper to raise. The averment that the *res* proceeded against is the same as has been arrested has been omitted since the adoption of the simpler and more concise style encouraged and approved by the present learned Judge of the Court of Admiralty of *Ireland*, to whom the great improvement in the present forms of his Court is principally to be attributed.

In *England* before any pleading is filed in the Registry, a copy thereof must be served on the adverse proctor. (Rule 71.)

In *Ireland* copies of pleadings are not served, but are taken out by the adverse proctor from the Registry.

Every pleading in the Court of Admiralty of *England* must be signed by counsel and proctor. The same is the rule in *Ireland*.

Any petition or other pleading may be altered or amended, either by consent of proctors or by permission of the Judge; and every petition or other pleading shall stand admitted, if within four

days from the filing thereof the adverse proctor does not file a notice of motion objecting to the admissibility thereof. (Rules 76, 77.)

The proctor who has the right to plead further may, if he think fit, file a conclusion to the pleadings, and thereupon the pleadings are concluded, and no further pleading can be filed by either proctor, save by permission of the Judge. The conclusion is signed by counsel and proctor, a copy thereof is served upon the adverse proctor, and the original is filed in the Registry, in the same manner and under the same conditions as any other pleading.

If the proctor who has the right to plead further do not file his pleading or the conclusion within the time allowed for so doing, the adverse proctor may himself file the conclusion, and thereupon no further pleadings shall be filed by either proctor, save by permission of the Judge. (Rules 74, 75.) And see Form No. 36 (1859).

In *Ireland* no formal conclusion to the pleadings is given, but when issue has been joined on the pleading last exhibited, the promovent may apply to have the cause assigned for hearing, and in default of his doing so, the impugnant may make the like application.

In *England* (Rule 156), no pleading or other document can be filed unless properly indorsed and stamped. And, by Rule 157, before a pleading can be filed there must be a certificate indorsed thereon, signed by the proctor or by his clerk for him, to the effect that the document has been duly served.

If the pleading cannot be filed within the time limited by the Rules, the time may be extended by consent (Rule 155), or the Judge may extend it; or the Registrar may, reasonable cause shown, extend it to the day on which the Judge shall next sit in Chambers.

These rules are peculiar to the *English* practice, save as to the extension of time by consent of the Judge.

By Rule 159, if a proctor, save by permission of the Judge or Registrar, do not file or serve on the adverse proctor, as may be required of him, any document within the time allowed by any of the Rules, the adverse proctor shall not be compelled to receive the same, save by order of the Judge.

In *Ireland* if any document is not filed or served within the time required by any rule, the Judge assigns a day whereon it shall be done, and the proctor is bound to have it done by that day, or show some sufficient excuse.

In *England* the admissibility of pleadings may still be objected to, by the party who objects giving notice of the objection, which is then argued in Court. But any pleading may be altered or amended by consent, or by permission of the Judge. (Rules 76, 77.)

In *England* in all contested causes the whole of the pleadings and written proofs on which the parties intend to rely at the hearing must, unless the Judge shall otherwise order, be printed before the hearing. (Rule 96.)

In causes in which there have been pleadings, within ten days from the conclusion being filed the plaintiff's proctor leaves in the Registry printed copies of the whole of the pleadings; and, if he shall not do so, the defendant's proctor may move to have the cause dismissed with costs. (Rule 98.)

If the written proofs in the cause consist of affidavits only, each proctor shall, within six days from the expiration of the time allowed for filing

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pleadings,
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the proofs, leave in the Registry printed copies of his proofs. And if the written proofs in the cause consist of depositions only, or partly of depositions and partly of affidavits, each proctor shall, within twelve days from the expiration of the time allowed for filing the proofs, leave in the Registry printed copies of his proofs. (Rules 99, 100.) One hundred and fifty copies of the documents required to be printed must be struck off; of these seventy are left in the Registry, and fifty given to the adverse proctor. If an appeal be interposed, sixty of the seventy copies left in the registry are transmitted to the Court of Appeal. (Rules 101, 102.)

The practice of printing the proceedings has never yet been adopted in the Court of Admiralty of *Ireland*, except so far as relates to the printed cases furnished to the members of the Court of Delegates, as already mentioned in cases of appeal.

The *English* Rules, 103 to 106, regulate the practice as to placing causes on the list for hearing. In *Ireland* there is no cause list for hearing, but each case is assigned for hearing according to the convenience of the parties and the state of business in the Court.

The following are the forms of pleadings under the Rules of 1859 in *England*. For the forms in *Ireland*, see *Irish Procedure*, Appendix A, pp. 10, 11.

No. 33.—PETITION.

In the High Court of Admiralty of England.

The [state title of cause], Master.

A. B., Proctor for the plaintiff in a cause of [state nature of cause] instituted on behalf of [state name, address, and description of plaintiff] against [state name and nature of property] and against intervening, says as follows [here make the necessary statement, in short paragraphs, numbered consecutively].

And the said A. B. prays [here state the plaintiff's prayer].

Dated the day of 18 .
[To be signed by the counsel and proctor].

No. 34.—ANSWER.

In the High Court of Admiralty of England.

The [state title of cause], Master.

C. D. Proctor for [state name, address, and description], the defendant in this cause, says as follows: [here make the necessary statements, in short paragraphs, numbered consecutively].

And the said C. D. prays [here state the prayer of the defendant].

Dated the day of 18 .
[To be signed by the counsel and proctor].

No. 35.—REPLY OR ANY SUBSEQUENT PLEADING.

In the High Court of Admiralty of England.

The [state title of cause], Master.

A. B., Proctor for the [state whether plaintiff or defendant], further says as follows: [here make the necessary statements, in short paragraphs, numbered consecutively].

Dated the day of 18 .
[To be signed by the counsel and proctor].

No. 36.—CONCLUSION.

In the High Court of Admiralty of England.

The [state title of cause], Master.

A. B., Proctor for the [state whether plaintiff or defendant], says, that he does not plead further, and prays that the pleadings be concluded.

Dated the day of 18 .
[To be signed by the counsel and proctor].

(7.) Examination of Witnesses.

In *England*, by the 7th section of 3 and 4 Vic., cap. 65, the Court of Admiralty is empowered to summon and examine witnesses *viva voce*, and either before or after examination by deposition, or before a commissioner; and the notes of such evidence may be taken by the Judge or Registrar, or by such other person, and in such manner as the Judge shall direct. The Court is also empowered (sec. 8) to issue a special commission to an advocate or barrister, to take evidence *viva voce*, and (sec. 9) to require the attendance, before itself or before its commissioner, of any witness and the production of any documents by a writ of the same form as a *subpœna ad testificandum*, or a *subpœna duces tecum*, and to punish for contempt in disobedience to such writ. (See Forms of Subpœna, Nos. 42, 44.) The provisions of the Evidence Act (3 and 4 Wm. IV. cap. 42) are also extended to the Court (sec. 10); and it has power to direct a trial by jury of any issue on any question arising in any contested suit depending before the Court, such trial to take place at common law; (sec. 11). And it is given discretionary power over the costs of such issues and commissions (sec. 12), and power to direct new trials, and by and to whom and how the costs shall be paid on any application for a new trial, or upon any new trial (sec. 13); and the granting or refusing any new trial may be the subject of an appeal.

None of these provisions have been extended to *Ireland*.

In *England* (by Rule 173), a subpœna may contain the names of any number of witnesses. In *Ireland* the citation issues against one witness only.

In accordance with the enlarged powers given to the Court by the 3 and 4 Vic., cap. 56, it is provided by Rule 78, that causes may be proved by affidavits, by written depositions, or by the oral examination of witnesses in open Court, or partly by one mode, partly by another. The proctors may consent to the mode in which the proofs shall be taken, or the Judge, on the application of either proctor, may direct it. (Rule 79). The Judge, after the filing of the conclusion, directs the time within which all written proofs shall be filed.

In *Ireland* causes have occasionally, as already stated, been heard by consent on affidavits, which are filed before the hearing on a day agreed on. Other written proofs are not filed, but are deposited in the Registry, if brought into Court before the hearing.

The practice of the Court in *England*, as to the form of affidavits and the mode of administering them, is prescribed by the Rules 82 to 86, both inclusive. The practice of the *Irish* Court is now analogous to this, but it is a practice tacitly introduced of late for convenience sake by the practitioners, and not the result of any rule or long established usage.

The present practice of the *English* Court as to written depositions is specified in the Rules 87 to 95, both inclusive. According to the former practice in *England*, a term probatory was assigned by the Court within which the plaintiff or defendant, as the case might be, was bound to produce and examine his witnesses, which term probably was granted on the application of the opposite proctor, in case the examination was delayed.

In *Ireland* the term probatory was assigned to each party respectively, at the request of his proctor, in order to enable him to proceed to proofs. (See *Irish Procedure*, p. 12.)

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The practice of the *Irish Court*, as to evidence *in scriptis*, has been already described (p. 12.) It does not appear to be necessary to trace further the minute differences between systems so little susceptible of comparison.

In *England*, as in *Ireland*, exceptive allegations may be brought in to contradict the witnesses examined on behalf of the other side. This kind of exceptive allegation is subject to the same objections and is proved in the same manner as any other pleading. Witnesses may be examined, and answers taken upon it; and a responsive allegation may be filed in denial of it.

(8.) *Hearing.*

In *England* the mode of hearing the cause is either agreed on by the parties, or directed by the Judge. The proctor entitled to have the cause placed on the list for hearing files a notice in the Registry, with the usual minute. If the cause is to be proved wholly by oral evidence, either party may, as soon as the required number of the printed copies of the pleadings has been left in the Registry, have the cause placed in the list. If the cause is to be proved wholly or in part by written evidence, either proctor may have it set down for hearing as soon as the required number of printed copies of the written proofs has been left in the Registry. If either party neglect to file his proofs, or leave the requisite printed copies of them in the Registry, his adversary may set down the cause. (Rules, 103, 104, 105, 106.)

In *Ireland* neither pleadings nor proofs are printed; the promovent's proctor prays the Judge to have the cause assigned for hearing, and if there be any default on the part of the impugn-ant, the hearing may proceed *ex-parte*, but that, it is conceived, would be altogether in the discretion of the Judge.

In *England* subpoenas ad testificandum are obtained for the witnesses, who are to be examined *viva voce*, on filing a *præcipe* for the purpose. It may contain the names of any number of witnesses.

In *Ireland* the only mode of enforcing the attendance of a witness is by a citation; and a separate citation must issue for each witness whose attendance is to be enforced.

In *England* the examination of witnesses *viva voce* is conducted in the same manner as at Nisi Prius. The official shorthand writer of the Court attends and takes notes of the evidence, which, if necessary, may be referred to by the Judge, and are available for the Court of Appeal.

In *Ireland* the shorthand writer's notes, if there be one employed, must all be copied again in the transmiss, when an appeal is interposed.

In *England* the Court may direct an issue to a court of law (3 & 4 Vic., c. 65, sec. 11), and may direct a new trial; but it will exercise these powers only where some important issue is involved. The Court in *Ireland* has not these powers.

The Court in *England* is assisted by two elder brethren of the Trinity-house, at the hearing of every suit for collision, and occasionally in salvage suits. The Court may make an order for the inspection, by the Trinity Masters, of any ship, or other property. (Ad. C. A. 1861, sect. 18.) The *Irish Court* has not any similar power.

In *Ireland* the nautical assessors are either naval officers or masters in the Merchant Service. In both countries the questions upon which the

nautical assessors are consulted refer to the conduct of the ship, and the circumstances which led immediately or directly to the collision in question. (See *Irish Procedure*, Appendix A, p. 13.)

After hearing the parties on both sides by their counsel, the Court makes its decree. But it may direct further evidence to be produced, in order to clear up any doubt upon the evidence before it. The costs are in the discretion of the Court, which may disallow part of the costs, or give a sum for costs, *nomine expensarum*. The practice in *England* and *Ireland* is substantially the same in these respects.

(9.) *References.*

References are now a very important part of the procedure of the Court of Admiralty of *England*, in taking accounts between the parties in a suit. The accounts are referred to the Registrar, and one or two official merchants who are associated with him, who report thereon to the Court. The reference is sometimes made generally, to report what is due to the plaintiff; sometimes the order is accompanied with special directions, either concerning a particular item or particular items, or concerning the principle upon which the account, or any part of it, is to be taken.

In wages cases the Registrar ordinarily takes the account without the merchants; but if any special matter requiring commercial experience to decide it should arise, the merchants will be associated with him.

The Rules of 1859 fully comprise the practice relating to references; and, for the sake of their importance, they are here given at length. They apply, whether the reference be to the Registrar alone, or to the Registrar assisted by one or by two merchants. They are as follows:—

Rule 108. Within twelve days from the day when the order for the reference is made, the proctor for the claimant shall file the claim and affidavits; and within twelve days from the day when the claim and affidavits are filed, the adverse proctor files his counter affidavits.

109. From the filing of the counter affidavits, six days only shall be allowed for filing any further affidavits by either proctor, save by order of the Judge, or by permission of the Registrar.

110. Within three days from the expiration of the time allowed for filing the last affidavits, the proctor for the claimant shall file in the Registry a notice, with the stamps for the reference affixed thereto, praying to have the reference placed on the list for hearing; and, if he shall not do so, the adverse proctor may apply to the Court to have the claim dismissed with costs.

111. At the time appointed for the reference, if either proctor be present, the reference may be proceeded with; but the Registrar may adjourn the reference from time to time, as he may deem proper.

112. Witnesses may be produced before the Registrar for examination, and the evidence shall, on the application of either proctor, but at the expense in the first instance of the party on whose behalf the application is made, be taken down by a shorthand writer or reporter appointed by the Court, who shall be sworn faithfully to report the evidence; and a transcript of the shorthand writer's or reporter's notes, certified by him to be correct, shall be admitted to prove the oral evidence of the witnesses in an objection to the Registrar's report.

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113. Counsel may attend the hearing of any reference, but the expenses attending the employment of counsel shall not be allowed on taxation, unless the Registrar shall be of opinion that the attendance of counsel was necessary.

114. The Registrar may, if he think fit, report whether any and what part of the costs of the reference should be allowed, and to whom.

115. The proctor for the claimant shall, within six days from the time when he has received a notice from the Registry that the report is ready, take up and file the same in the Registry.

116. If the proctor for the claimant shall not take the steps prescribed in the next preceding rule, the adverse proctor may take up and file the report, or may apply to the Court to have the claim dismissed with costs.

117. A proctor intending to object to the Registrar's report shall, within six days from the filing of the report, file in the Registry a notice, a copy of which shall have been previously served on the adverse proctor; and within a further period of twelve days he shall file his petition in objection to the report.

118. All the rules hereinbefore prescribed respecting the pleadings and proofs in a cause, and the printing thereof, shall, so far as they are applicable, apply to the pleadings, proofs, and printing in an objection to a report of the Registrar.

Irish prac-
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references.

The business which would in *England* be done by the Registrar and merchants on a reference, is in *Ireland* done before the Judge himself. Accounts are produced, examined, and vouched before him, and evidence is gone into, as in any other part of the hearing of the cause, of which the so-called reference is, in substance, merely an adjournment; and the case is conducted by counsel on both sides in the ordinary manner. An inquiry into damages, in cases of collision, usually takes place in the *Irish* Court after the general liability of the defendant has been decided by the Court with the aid of its assessors; in other cases the amount of the promvent's demand is ascertained at the original hearing of the cause.

The Registrar of the *English* Court has the same powers as are given by the 15th section of the Merchant Shipping Act, 1854, to Masters of the Courts of Queen's Bench in *England* and *Ireland*, and the powers of a Surrogate sitting in Chambers. (Ad. C. Act, 1861, sects. 24 and 25.) The Registrar of the *Irish* Court has not these powers.

(10.) *Definitive Sentence.*

Sentence.

In *England*, as in *Ireland*, the Court, after hearing the parties on both sides by their counsel, makes its definitive sentence. The practice in both countries, on this head, appears to be substantially the same as already described (Appendix A, p. 13).

II. PROCEEDINGS FROM DEFINITIVE SENTENCE TO EXECUTION.

(1.) *Appeal.*

Appeal
to Privy
Council.

By the 2nd and 3rd Wm. IV., cap. 92, sec. 3, the power of the High Court of Delegates, which had been the Court of Appeal from the Instance Court of Admiralty since the 8th Elizabeth, cap. 5 (*English*), was transferred to the King in Council, and no commission of review is thenceforth to be granted. The appeal in prize cases always lay to the Commissioner of Appeals, and not to the Delegates.

By the 3rd and 4th Wm. IV., cap. 41, the Judicial Committee of the Privy Council was constituted, and all appeals to the King in Council were referred to the Committee to report thereon.

In the Court of Admiralty of *England* as of *Ireland* it was formerly held that no appeal lay before a definitive sentence, and such is still the law in *Ireland*; though when the appeal is brought on the merits the interlocutory order may be brought under the notice of the Court of Appeal; and if it is not, the party is held to have adopted it. But in *England*, by the 3rd section of the Admiralty Court Act, 1861, any party aggrieved by any order or decree of the Judge of the Court, whether made *ex-parte* or otherwise, may now, with the permission of the Judge, appeal therefrom as fully as from any final decree or sentence. And the Court of Admiralty may take bail to answer the judgment as well of that Court as of the Court of Appeal, and the bail given in the Court of Admiralty may be enforced in the Court of Appeal. (A. C. Act, 1861, sec. 32.)

In *Ireland* the bail given in the Court of Admiralty are not bound in the Court of Appeal. (See Appendix A, p. 9.)

In *England* appeals may be asserted before the Judge at the time of sentence, or be interposed by the ordinary practice within fifteen days thereafter. In both cases the appeal must be prosecuted within a year and day from the sentence. A petition of appeal is lodged with the Registrar of the Admiralty, and thence transmitted to the Privy Council Office, submitted to Her Majesty, and referred in the ordinary course to the Judicial Committee. A monition for process from the Judicial Committee is then served upon the Registrar of the Court of Admiralty, and thereupon the cause is removed. Within six days afterwards sixty of the seventy printed copies of the proceedings which have been left in the Registry are transmitted by the Registrar to the Court of Appeal.

The case being thus heard before the Judicial Committee, their Lordships advise Her Majesty to affirm, amend, or reverse the judgment, with or without costs according to their discretion, remitting the cause for execution.

For the proceedings in an appeal to the Court of Delegates in *Ireland*, see Appendix A, p. 14.

(2.) *Sales.*

The appraisement and sale of the *res* proceed after sentence in *England* much in the same manner as already described. (See Appendix A, p. 15.) The commission issues to the Marshal, and is executed by him or his substitutes. In *England* the property may, by permission of the Court, and with consent of the defendant, be sold by private contract. In *Ireland* the sale is always by public auction.

In *England* the Marshal cannot sell for less than the appraised value. In *Ireland* the property is sold to the highest bidder, but if the amount bid be under the appraised value, the Court will not confirm the sale until an opportunity is given of opening the bidding. (See p. 15.)

In *England* when the sale has been perfected, the Marshal pays the gross proceeds into Court, and at the same time files the account of the sale with the vouchers.

In *Ireland* the Marshal deducts from the gross proceeds a sum sufficient to cover his fees and expenses, and pays over the balance into the hands of the Registrar. The Marshal's fees and

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expenses are not taxed or settled until the winding up of the cause.

In *England* any person interested in the proceeds may be heard before the Registrar on the taxation of the Marshal's bill, and the objection is heard in the same manner as an objection to a proctor's bill of costs. (Rule 126.) In *Ireland* the practice is substantially the same, but the objection is not heard until the termination of the cause.

The amount of the *res* being realized the plaintiff's proctor moves the Court by counsel for an order for payment of his client's claim, which being granted, the money is paid out of Court, on an order, signed by the Judge.

If the decree in a cause of possession be for the plaintiff, the judge decrees possession accordingly.

Bail for latent demands is not now required except when the Judge otherwise directs. (Rule 129.)

In *Ireland* bail was never required for latent demands; the proceeds are not paid out but on notice to all parties in the cause. In other respects the practice of paying out money is substantially the same as in *England*. It is paid by the Registrar, on an order, signed by the Judge, and on filing a power of attorney in the Registry, and handing a receipt to the Marshal.

In *England* a proctor who desires to prevent the payment of money out of Court, may file a præcipe, and thereupon a caveat shall be entered in a book kept in the registry, called the Caveat Payment Book. (Rule 130). This caveat continues in force for six months.

There is no such book kept in the *Irish* Admiralty Court; but money is not paid out of Court without notice to all the parties in the cause, any of whom may object to the payment of it; question is then decided on argument of the motion for payment.

(3.) Proceedings against Bail.

The proceedings against bail are analogous to those already described as being part of the *Irish* practice; and the payment of the amount of the security is enforceable by monition and attachment.

(4.) Taxation of Costs.

The taxation of costs is conducted on the same principles as in *Ireland*; but the practice in *England* is now regulated by the Rules of 1859 on the subject.

A proctor, entitled to have his bill of costs taxed by the Registrar, files it in the Registry, a copy thereof having been previously served upon the adverse proctor (if any); and a notice is sent from the Registry of the time appointed for the taxation.

In *Ireland*, bills of costs are not filed, but they are lodged in the Registry after taxation.

At the time appointed for the taxation, the Registrar may proceed to tax the bill, if only one of the proctors in the cause be present.

The practice in *England* in regard to porrecting bills of costs is abolished, and in lieu thereof the Registrar certifies at the foot of the bill the amount at which he has taxed it, and the proctor may then apply to the Judge for an order for the payment. A proctor intending to object to the taxation, must within six days from the completion of the taxation, file a notice in the Registry, a copy of which shall have been previously served on the

adverse proctor. An objection to the taxation of the Registrar shall, unless the Judge shall otherwise order, be heard on motion, but either proctor may apply to the Judge to have it heard, by petition, in the same manner as an objection to a report of the registrar. (Rules 119, *et seq.*)

If the payment is not made by the person liable to pay the costs, a monition issues, which gives to the party monished a term of fifteen days for the payment. It is served personally on the party monished; and the service is certified by affidavit, and by the certificate of the Marshal, endorsed on the monition; on which process of attachment may be awarded, and a committal being endorsed on the attachment, is signed by the Judge, in pursuance of the 3 and 4 Vic., cap. 65, secs. 3 and 4, and the party is lodged in prison by virtue of the committal, where he remains until the contempt is purged, and the attachment superseded.

It has already been mentioned that the payment of costs is enforceable in *Ireland* by monition and attachment. (See Appendix A, p. 15.)

III. INTERLOCUTORY PROCEEDINGS.

(1.) Security for Costs.

The practice as to security for costs does not appear to have been altered by the new rules, and therefore remains as heretofore, as it is provided by the Rules of 1859 (No. 3) that the practice of the Court in operation before the first day of January, 1860, shall continue in force, save in so far as it may be inconsistent with these rules, orders, and regulations.

The amount of the security given in the *English* Court is generally £250 or £300, while that given in *Ireland* is usually £75. In *England*, in suits for wages, the plaintiff may be compelled to find bail to prosecute his suit and to pay costs, if he does not succeed in it. The amount of this bail is £30; it is given by one surety, who is approved by the Marshal, as in case of a defendant's bail, or by the plaintiff's own bail, called a juratory caution. The latter is admitted only in case the plaintiff can make an affidavit of his inability to provide the requisite security, or to deposit the amount of it in the Registry. In *Ireland* this bail or juratory caution is not now required in a seaman's suit.

The practice in both countries being the same in respect of security for costs, it is thought sufficient to refer to what has been already stated on this subject in the Statement of the *Irish* Procedure (Appendix A, p. 15).

(2.) Tenders.

The practice with respect to tenders seems to be, in all essential particulars, the same in *England* as in *Ireland*, with the following exceptions:—

In *England*, when a tender is made in a suit for wages, damage, or bottomry, the defendant may demand the plaintiff's answer at once. In a salvage suit the plaintiff cannot compel the defendant to answer to his tender until the value of the *res* has been agreed on, or ascertained by appraisement.

In *Ireland* the promovent has, in all cases, until the next court day to answer the tender; and the time for so doing may be extended, at the discretion of the Judge.

In *England* all money paid into Court is lodged in the Bank of *England* to the account of the Registrar of the High Court of Admiralty (Rule 127).

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Court.

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In *Ireland* the money is paid into the hands of the Registrar, with the accustomed poundage, and is lodged by him to his own private account.

(3.) *Motions.*

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Motions in
England.

According to the present practice in *England*, motions may be made to the Judge either in Court or in Chambers. Notice of motion, together with the proofs, if any, in support thereof, must be filed in the Registry three days at least before the hearing of the motion. A copy of the notice of motion and of the proofs, if any, must be served on the adverse proctor before the originals are filed.

No motion can be made to the Judge in Court save by counsel, or by a party conducting his cause in person. Proctors may be heard on any motion before the Judge in Chambers. Counsel also may be heard on any motion before the Judge in Chambers, if notice thereof has been given to the adverse proctor two days at least before the hearing of the motion.

In *Ire-
land.*

In *Ireland* the Judge does not, except in pressing cases, hear motions in Chambers, and has no regular sittings for that purpose. All motions are made before him in Court. The notice need not be filed; but a copy of each notice of motion, and of the affidavits to be used on the motion, is furnished to the Judge before the motion is moved in Court. The usual notice for a motion on which counsel are to be heard is from one court day to another; but if the motion be served on a day that is not a court day, then one clear day at least must elapse between the notice and the motion.

(4.) *Summonses.*

Proceed-
ing by
summons.

In *England* either proctor in a cause may, on filing a præcipe, together with the proofs on which he intends to rely, take out a summons against the adverse proctor to appear before the Judge in Chambers in regard to any matter arising in the cause. Every summons must be prepared in the Registry, and be signed by the Registrar, and a copy thereof must be served on the proctor summoned three days at least before the day named in the summons. If the proctor summoned do not appear at the time named in the summons, the cause is called on, and the Judge makes such order upon it as he thinks fit. On the other hand, if the proctor by whom the summons has been taken out does not appear to support it, the Judge may, on the application of the proctor summoned, dismiss the summons with costs.

If, before the time named in the summons, the summons be filed in the Registry, with an endorsement thereon signed by the proctor summoned, consenting to an order being made in the terms and to the effect of the summons, the Registrar may, if he shall think it reasonable and such as the Judge would under the circumstances allow, make the order; and such order shall have the same force and effect as if the same had been made by the Judge in person. Either party may employ counsel on the hearing of a summons, if notice thereof has been given to the adverse proctor, two days before the hearing of the summons. (Rules 144 to 149.)

The forms of the præcipe and summons are as follows:—

No. 45.—PRÆCIPE FOR SUMMONS.

In the High Court of Admiralty of England.

The [state title of cause], Master.

I, A. B., proctor for the [state whether plaintiff or defendant] in this cause, pray a summons against [state

whether defendant's or plaintiff's proctor] to appear before the judge in chambers to show cause why [state the cause of summons].

Dated the day of 18

[To be signed by the proctor, or by his clerk for him.]

No. 46.—SUMMONS.

In the High Court of Admiralty of England.

The [state title of cause], Master.

Let C. D. [state whether plaintiff's or defendant's proctor] attend before the judge in chambers at on the day of 18, at o'clock in the noon, to show cause why

Dated the day of 18

E. F., Registrar.

Summons.

Taken out by

This proceeding by summons is altogether unknown in the practice of the Court of Admiralty of *Ireland*. The same objects may, however, be obtained by motion on notice.

(5.) *Consolidation of Suits.*

The practice in *England* and *Ireland* as to consolidating suits appears to be the same as already detailed in the preceding part of this statement.

(6.) *Monitions to bring in Freight.*

In *England* a monition will be granted against the owners of the ship, if the freight has been paid to them, or against the consignees of the cargo, if the freight has not been paid, to pay it into Court. The Court, before granting the monition, must be satisfied that the freight is in the possession of the persons it is sought to charge. The net freight is brought in in causes of bottomry, but in causes of damage the gross freight must be brought in without any deduction for any portion of it which has been paid in advance, or for any other ground, unless the cargo has been diminished by collision or other losses. If a British vessel be arrested before the completion of her voyage, a price equal to the freight to be earned must be brought in; but in case of a foreign vessel freight, *pro ratâ itineris*, only can be made liable.

The proceedings by which the plaintiff may enforce the payment into Court of the freight, subject to his demand, are governed by the same rules in both Courts, but in *England* the monition goes in the first instance; whereas in *Ireland* there is first a conditional and then an absolute order to show cause against the issuing of the monition. (See pp. 16, 17.)

(7.) *Commissions.*

The present practice of the *English* Court of Admiralty as to issuing commissions in the progress of a cause, such as commissions of removal, of unlivery, of appraisement, and of appraisement and sale, does not appear to differ essentially from that of the *Irish* Court. In both countries they issue to the Marshal, and are executed by him or by his substitutes, and in both countries they are returned with his certificate of the due execution of them. In *England* each commission is taken out on a præcipe, certain stamps, regulated by the Rules of 1859, and the Order in Council of 29th November, 1859, approving of the same, being necessary to be affixed to the proceedings in lieu of fees.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Dr.
Town-
end's
Statement

Monition
for pay-
ment of
freight.

Practice
as to com-
missions.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Dr.
Town-
end's
Statement

In *Ireland* the commission generally issues on the motion of the proctor who issues it; and is prepared according to his instructions to the Registrar or his deputy, to whom the fees are paid in money.

It now only remains to notice shortly the recent regulations in *England* respecting notices, consents, and minutes.

Notices.

All notices required by the practice of the court must be written or printed, or partly written and partly printed. (Rule 150.) And the same is the practice in *Ireland*, though there is no actual rule on the subject, the Court paying no regard to mere verbal communications.

In *England* the service of a notice by a proctor may be effected by his clerk or agent, and if required to be verified, shall be verified by affidavit. Notices required to be left in the Registry shall be signed by the proctor, or by his clerk for him. (Rules 151, 152.)

The *Irish* practice is exactly similar.

In *England* notices sent from the Registry may be sent by post, and the day on which the notice is posted is considered the day of the service, and the posting is a sufficient service. (Rule 153.)

In *Ireland* notices are not sent from the Registry, unless the Judge specially direct it to be done in some particular case; and it is then rather an act of favour from the Court than a part of its actual practice.

Consents.

In *England* (Rule 155), the Registrar has a power of making a written agreement between the proctors a rule of Court, if he thinks it a reasonable one, and such as the Judge would allow.

Minutes.

In *Ireland* the Registrar has no such authority. It is required by the present practice in *England* that, on filing any document, the proctor shall state, in a printed form called a minute, the nature of the document filed, and the date of filing. A record of all minutes and of all causes instituted, and appearances entered, and of all decrees and orders of Court is entered in a book called the Minute Book. (Rule 160, 161.)

The only official register book of the Court of Admiralty of *Ireland* is the Registrar's Book of the Acts of Court. A series of these books exists from 1747 to the present time. All rules, appearances, tenders, decrees, and orders of the Court are entered in this book, and an Alphabetical Index is now added to each volume.

The entries are made in the Act Book from the notes of the Registrar, which are taken down in a rough book during the sitting of the Court. The Act Book of the Court is considered conclusive evidence of the matters therein contained, and the Court will not allow it to be questioned.

Inspection
of docu-
ments.

In *England* the parties and proctors in a cause, and their clerks, may, while the cause is pending, and for a period of three months from the termination thereof, inspect, free of charge, all the acts, minutes, and documents filed therein; other persons may inspect the Court books on payment of the proper fee; but no person, except a party or proctor in the cause, or a clerk of the latter, shall be allowed, save by permission of the Judge, to inspect any of the documents in a pending cause. (Rules 179, 180, 181.)

In *Ireland* no inspection of the Registrar's book or other document is allowed as of right,

but copies of rules and documents are issued on payment of the accustomed fees.

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DICTION,
PRACTICE,
AND PRO-
CEDURE.

Dr.
Town-
end's
Statement

Fees, how
paid.

The fees to be paid to the officers and practitioners in causes in the Court of Admiralty of *England* are set forth in the schedules annexed to the Rules of 1859. And by the 17th and 18th Vic., cap. 79, secs. 14, 15, and the rules made in pursuance thereof, provision is made for the collection of the fees payable in relation to the proceedings in the High Court of Admiralty of *England* by means of stamps, whether in instance, prize, or other matters. (Sec. 23.)

In *Ireland* the fees are still paid in money, according to a schedule settled by the Court, with the concurrence of the practitioners.

PROCEEDINGS IN PERSONAM.

In a proceeding *in personam*, in *England*, the proctor may, on filing a *præcipe* and an affidavit, take out a citation *in personam*. (Rule 27.)

A citation *in personam* includes the instrument, heretofore called a monition to appear and defend suit, issued under the provisions of the 17th and 18th Vic. cap. 78. The form is as follows:—

No. 17.—CITATION IN PERSONAM.

In the High Court of Admiralty of England.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To _____ Greeting. Whereas a cause of _____ has been instituted in the High Court of our Admiralty of England against you on behalf of _____ in the sum of _____ pounds. We therefore hereby command you the said _____ to enter, within six days from the service hereof (exclusive of the day of such service), in the Registry of our said Court an appearance in the said cause. And we hereby warn you that, if you do not enter an appearance as aforesaid, the Judge of our said Court will proceed to determine the said cause, or make such order therein as to him shall seem right.

Given at London, under the Seal of our said Court, the _____ day of _____ in the year of our Lord one thousand eight hundred and _____

Citation in personam

£

Taken out by

E. F., Registrar.

The rules respecting the issue of warrants in *rem* are, so far as they are applicable, to apply to the issue of citations *in personam*. (Rule 29.) The action is then entered in the Action Book. *Rules applicable to causes in personam.*

A *præcipe* (Form 58) issues for the service by the Marshal of any instrument *in personam*. It must be personally served on the defendant or defendants, unless the proceeding be a cross action in a damage cause, in which case service on the proctor in the original cause is sufficient. The citation must be returned to the Registry within six days from the service.

If an appearance be given to it, the suit will go on to sentence, as in the proceedings already described.

If the defendant does not appear within twelve days from the filing of the citation, the plaintiff may file his proofs and have the cause placed in the list for hearing. And when the case comes before the Judge he may, if satisfied that the claim is well founded, enforce the payment by monition and attachment. The *præcipe* for at-

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AND PRO-
CEDURE.

tachment and the attachment thereon are in the following form:—

No. 59.—PRÆCIPUE FOR ATTACHMENT.

In the High Court of Admiralty of England.

The [state title of cause], Master.

I, A. B., Proctor for the [state whether plaintiff or defendant], pray an attachment against [state name, address, and description], for his contumacy and contempt in [not having obeyed the monition, bearing date the day of 18 , for payment of the sum of [state the sum in letters], which was served upon him on the day of 18 .] The commitment endorsed on the said Attachment, to be addressed to [the keeper or gaoler of Her Majesty's gaol or prison at , as the case may be].

Dated the day of 18 .

[To be signed by the proctor, or by his clerk for him.]

No. 60.—ATTACHMENT.

In the High Court of Admiralty of England.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To all and singular our justices of the peace, mayors, sheriffs, bailiffs, marshals, constables, and to all our officers, ministers, and others whomsoever, greeting. Whereas, in a cause of instituted in the High Court of our Admiralty of England, on behalf of against [and against

intervening], the Judge of our said Court has decreed to be attached for manifest contumacy and contempt in . We therefore hereby command you to attach and arrest the said , and to keep under safe and secure arrest, until you shall receive further orders from us [or until shall have obeyed the said monition by]

Given at London, under the seal of our said Court, the day of in the year of our Lord one thousand eight hundred and

E. F., Registrar.

Attachment.
Taken out by

Endorsed on the above.

To High Court of Admiralty of England. } Receive into your custody the bod of herewith sent you, for the cause hereunder written; that is to say, For manifest contumacy and contempt (in not having obeyed the within-mentioned monition).

J. K. Judge.

Apportionment of Salvage under the Merchant Shipping Act, 1854.

Proceed-
ings to
apportion
salvage.

In proceedings under the 468th section of the Merchant Shipping Act, 1854, for the distribution and payment of salvage, the salvors who are interested in the bond given under that Act to the receiver of wreck make affidavit of the facts, on which a citation issues to the owners of the property salvaged and to the obligors named in the bond to answer the salvors in a cause of salvage. This citation is personally served on the defendants. Notice is also given to the receiver of wreck to transmit to the Court of Admiralty the original bond and other documents relating to the salvage; and if the bond has been transmitted to the Board of Trade, a similar notice is sent to the secretary. When the bond and other documents have been lodged, and an appearance given for the defendants, the cause proceeds to judgment. The decree will be enforced in the usual way.

If, instead of giving bail, a sum of money has been deposited with the receiver, notice is given to him to pay it to the account of the Registrar at the Bank of England; and in that case the monition will be against the owners only, and the Court will enforce the sentence against the fund in its own hands.

As to this subject in *Ireland* see Appendix A, p. 18.

Appeals from Awards of Salvage.

In appeals from salvage awards under the Merchant Shipping Act, 1854, sec. 464, the proctor of the appellant files an affidavit, to which a copy of the notice of appeal, if required to be served, shall be annexed (Rule 31), and a præcipe to lead a citation, which is in the following form:—

No. 18.—CITATION IN AN APPEAL FROM AN AWARD OF SALVAGE.

In the High Court of Admiralty of England.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To greeting. Whereas a cause of appeal from an award of salvage made the day of 18 , has been instituted in the High Court of our Admiralty of England against you, on behalf of . We therefore hereby command you the said , to enter, within six days from the service hereof (exclusive of the day of such service), in the Registry of our said Court an appearance in the said cause. And we hereby warn you that, if you do not enter an appearance as aforesaid, the Judge of our said Court will proceed to determine the said cause, or make such order therein as to him shall seem right.

Given at London, under the seal of our said Court, the day of in the year of our Lord one thousand eight hundred and

E. F., Registrar.

Citation in personam.

(Appeal from an award of salvage.)

Taken out by

The citation is served, and returned with the usual minute. After the expiration of twelve days from the filing of the citation, if no appearance have been given, the appellant files his proofs, which consist of the proceedings and award, and the certificate required by the 465th section of the Merchant Shipping Act, 1854. These proofs, with any other evidence adduced for the appellant, are then printed, and the printed copies are filed in the Registry. If the respondent appears, the proofs on both sides are printed and filed. Either party may obtain leave from the Court to adduce further evidence, or to hear the cause on petition.

The practice in *Ireland* in such cases differs only in the particulars introduced by the Rules of 1859. (See Appendix A, p. 18.)

There are some minor distinctions which I have designedly omitted, as of too little importance to deserve notice in a general view of the subject on which my statement has been required, but I think the foregoing statement comprises all the substantial differences between the practice and procedure of the High Courts of Admiralty of *England* and of *Ireland*.

(Signed), J. F. TOWNSEND.

December, 1863.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Dr.
Town-
send's
Statement

2.—COPY of LETTER addressed to the Hon. JUDGE KELLY, inviting OBSERVATIONS on QUESTIONS issued by the COMMISSIONERS.

High Court of Admiralty, Ireland, Commission,
Four Courts, Dublin, January 26, 1864.

SIR,—We are directed by Her Majesty's Commissioners for Inquiring into the High Court of Admiralty of Ireland to forward to you the enclosed Statement of the differences in practice and procedure between the Courts of Admiralty of England and of Ireland, prepared for the Commissioners by Dr. Townsend.

We are, at the same time, to forward to you the questions which the Commissioners have addressed to—
1. Advocates, Proctors, and the Incorporated Society of Attorneys and Solicitors of Ireland.

2. Chambers of Commerce of Seaport Towns of Ireland.
3. Consuls of Foreign States resident in Dublin.

We are directed by Her Majesty's Commissioners to state that they will be glad to receive any observations which it may occur to you to make in reference to the subject of the Statement and Questions.

We are, Sir, your obedient Servants,

(Signed), W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON, } Secretaries.

The Hon. Judge Kelly.

JURISDICTION,
PRACTICE,
AND PROCEDURE.

Letter to Hon. Judge Kelly as to questions issued.

3.—OBSERVATIONS of the Hon. JUDGE KELLY in reply to preceding LETTER.

Q. 1. What is your opinion as to the expediency of assimilating, as far as practicable, the practice and procedure of the High Court of Admiralty in Ireland to the practice and procedure of the High Court of Admiralty in England?

A. 1. Nothing could be more expedient; it being in my opinion a matter of natural justice that merchants and ship-owners, whether foreigners or subjects of the realm, should have the benefit and protection of one and the same law in all parts of the same United Kingdom, whether their ships enter the ports of Ireland or when they enter ports in England. In the last Session, by the 26 Vic., cap. 24, the assimilation in question was extended to all the Vice-Admiralty Courts of the Colonies. Ireland alone is as yet without it.

Q. 2. Are there any and what parts of the practice and procedure of the High Court of Admiralty in Ireland which ought, for any and what reasons, to be retained in Ireland, though no corresponding practice and procedure be adopted in England?

A. 2. There are some parts so circumstanced, and which should be retained, because a saving of time and costs is thereby attained; but they are mere matters of detail, not involving a general principle, and should be retained, under a general clause giving power, as in such cases, to make or alter rules of Court.

Q. 3 and 4. What is your opinion as to the advantage or disadvantage of extending the jurisdiction of the High Court of Admiralty in Ireland to questions of demurrage, freight, and all other questions of dispute between captains or owners of vessels and merchants? Q. 4. Are there any other extensions of the jurisdiction of the High Court of Admiralty in Ireland which you would think desirable?

A. 3 and 4. The greatest advantages would result to all these parties by extending the jurisdiction to all these questions; and further (as to No. 4), extending it also to all questions between them and ship-brokers and pilots. Ships, whose business is on the seas, can badly endure the delays in port caused by the slower process of a suit at Common Law; and merchants, on the other hand, would, by this extension, obtain, *ab initio*, the security of the ship itself for the ultimate result of their claims, the remedy, then, being *in rem*.

Q. 5. Are there any simplifications of the practice and procedure of the Court which you would suggest for the purpose of securing the cheap and prompt decision of all questions in dispute between captains or

owners of vessels and merchants, and other questions where the sum in dispute is of small amount?

A. 5. The simplification referred to, and in such cases both just and desirable, could be best effected under a general clause of giving power to make rules, specially pointing to such, or by special clause, that all sums under, say £20, should not carry costs over, say £5.

Q. 6. In what manner would, in your opinion, the jurisdiction of the Court for the decision of such questions be best exercised at Cork, Belfast, Waterford, and other seaports distant from Dublin; and, in case a local jurisdiction were created, in what manner would a prompt appeal to the Court in Dublin be best secured?

A. 6. My deliberate opinion is that a jurisdiction, involving a clear knowledge of some of the nicest branches of mercantile law, could and should be exercised only by the Court itself, where a qualified and responsible judge presides, where decisions would be uniform, and where practice, through the intelligence and integrity of the professional practitioners, would be pure. All the objects sought or imagined in this query would be well attained by the mode pointed out in answer to Query 5. None of these seaports are more than six hours, by rail, distant from Dublin. All the foreign consuls, whose leave to institute proceedings must first be had by their deputies at the out-ports, reside in Dublin, and all the professional skill is also in Dublin. In England, with all her important out-ports—Liverpool, Plymouth, Southampton, &c.—no such innovation has been attempted or countenanced; and it is *assimilation* with English law, procedure, and practice, which is now, by the consent of all thinking and practical men, considered expedient, and just, and necessary.

Q. 7. What, in your opinion, would be the effect of the changes, if any, you have recommended as to assimilation, extension of jurisdiction, and simplification, or expediting procedure upon the amount of business to be transacted by the Court?

A. 7. Precisely the like effect as the extension of jurisdiction (the assimilation to which is now sought) produced upon the amount of business in the Court in England. I believe that I am correct in stating that its amount there was increased ten-fold.

(Signed), T. F. KELLY, LL.D.,

Judge of the High Court of Admiralty of Ireland.

February 5, 1864.

Observations of the Hon. Judge Kelly.

4.—FORM of CIRCULAR addressed to ADVOCATES, PROCTORS, and the COUNCIL of the INCORPORATED SOCIETY of ATTORNEYS and SOLICITORS of IRELAND, &c.

High Court of Admiralty, Ireland, Commission,
Four Courts,

Dublin, — day of —, 1864.

SIR,—We are directed by Her Majesty's Commissioners for inquiring into the High Court of Admiralty of Ireland to forward to you the enclosed Paper of Questions, and to request that you will favour the Commissioners with answers thereto. We are also to request

that you will transmit your answers to this office before the day of 1864.

We enclose a copy of the Commission, and of Dr. Townsend's statement of the differences in practice and procedure in the Courts of Admiralty of England and of Ireland.

We are, your obedient servants,

Secretaries.

To——

Circular to Advocates, Proctors, and Council of Incorporated Society of Attorneys and Solicitors, &c.

Circular to Advocates, Proctors, and Council of Incorporated Society of Attorneys and Solicitors, &c.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Questions to Ad-
vocates,
Proctors,
and Coun-
cil of In-
corporated
Society of
Attorneys
and Solici-
tors, &c.

5.—QUESTIONS referred to in preceding CIRCULAR.

1. What is your opinion as to the expediency of assimilating, as far as practicable, the practice and procedure of the High Court of Admiralty in Ireland to the practice and procedure of the High Court of Admiralty in England?
2. Are there any and what parts of the practice and procedure of the High Court of Admiralty in Ireland which ought, for any and what reasons, to be retained in Ireland, though no corresponding practice and procedure be adopted in England?
3. What is your opinion as to the advantage or disadvantage of extending the jurisdiction of the High Court of Admiralty in Ireland to questions of demurrage, freight, and all other questions of dispute between captains or owners of vessels and merchants?
4. Are there any other extensions of the jurisdiction of the High Court of Admiralty in Ireland which you would think desirable?

5. Are there any simplifications of the practice and procedure of the Court which you would suggest for the purpose of securing the cheap and prompt decision of all questions in dispute between captains or owners of vessels and merchants, and other questions where the sum in dispute is of small amount?
6. In what manner would, in your opinion, the jurisdiction of the Court for the decision of such questions be best exercised at Cork, Belfast, Waterford, and other seaports distant from Dublin; and, in case a local jurisdiction were created, in what manner would a prompt appeal to the Court in Dublin be best secured?
7. What, in your opinion, would be the effect of the changes, if any, you have recommended as to assimilation, extension of jurisdiction, and simplification, or expediting procedure upon the amount of business to be transacted by the Court?

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Questions to Ad-
vocates,
Proctors,
and Coun-
cil of In-
corporate
Society of
Attorneys
and Solici-
tors, &c.

Answers
of Advo-
cates.

Hedges
Eyre
Chatter-
ton,
LL.D., Q.C.

6.—I. ANSWERS to QUESTIONS addressed to ADVOCATES. HEDGES EYRE CHATTERTON, LL.D., Q.C.

1. In my opinion it is highly expedient to do so.
2. I do not know that there are, and even if there were, I think the advantages of uniformity of practice and procedure would counterbalance any slight advantages from their retention.
3. I think the jurisdiction should be assimilated to that of the English Court.
4. I am not aware of any.
5. None such occur to me.
6. I do not know any mode by which the jurisdiction of the Court could be exercised in the out-ports. It would, in my opinion, be mischievous to establish any such local jurisdictions, which I consider unnecessary, and unlikely to give satisfaction to the suitors, or to conduce to the efficient administration of justice.
7. In my opinion, the effect of these changes, if well carried out and worked, would add very much to the amount of the business of the Court. The mercantile business of Ireland has greatly increased, and if the procedure of the Court were simplified, its expenses diminished, and the right to practice in it thrown open to all barristers and solicitors, and the confidence of the mercantile community secured, the Court would be one of the most important in the country. I consider it essential to have a peculiar tribunal for shipping cases,

ready to dispose of them without delay, and rendered by practice familiar with nautical matters. I consider it also a matter of the greatest importance, to provide a satisfactory appeal from the Court, and no mode of appeal can be more unsatisfactory than the present. I beg leave to recommend an appeal to some one of the Superior Courts of Common Law, the Judges of which would soon learn enough of the peculiarities of nautical matters to understand such cases. The periods of sitting for such appeals should if possible be regulated within certain limits by statute, so as to avoid delay; and might be conveniently fixed after each term, when the puisne Judges are generally relieved from other duties. The Court of Appeal should be empowered to obtain the assistance of suitable nautical assessors. The evidence before them should be confined to that given below, as appearing by the shorthand writer's notes, &c., except when under special circumstances, and on special application for the purpose, new evidence should be admitted. I think an ultimate appeal to the Privy Council in England would be of important advantage, and would only be resorted to in cases of sufficient magnitude and importance.

(Signed),

HEDGES EYRE CHATTERTON.

Answers
of Advo-
cates.

Hedges
Eyre
Chatter-
ton,
LL.D., Q.C.

William J.
Corrigan,
LL.D.

6.—II. ANSWERS to QUESTIONS addressed to ADVOCATES. WILLIAM J. CORRIGAN, LL.D.

1. I think an assimilation of the practice in Ireland to that in England would be desirable and beneficial, if the jurisdiction in Ireland were enlarged to an extent equal to that exercised in England.
2. One branch of the practice of the High Court of Admiralty in Ireland, which I consider it would be desirable to retain in the event of a change, is the employment of a shorthand writer to take down the evidence at the hearing of a cause. His notes are useful at the trial, and they become of great importance when an appeal to the Court of Delegates is instituted.
3. I am in favour of an extension of the jurisdiction in cases of demurrage, freight, and other cases of dispute between captains, owners, and merchants, but in my opinion the power of arresting vessels should not be given to plaintiffs, whose demands do not exceed a certain amount. It would, in my mind, be injurious to the interests of commerce, if vessels ready for sea were subject to be detained for demands so small as demurrage claims frequently are.
4. It would be desirable, in my judgment, to confer on the High Court of Admiralty of Ireland a jurisdiction as extensive as that exercised by the High Court of Admiralty of England.
5. I am unable to suggest any alteration or simplification of practice, when the amount in dispute is small. I think for the reasons assigned in the answer to the

next question, that the principal Court is the proper and best tribunal, for the effectual administration of justice.

6. The present mode of exercising the jurisdiction of the Court at local ports, namely, by two Justices of the Peace, and the present mode of appeal from their decision, are, in my opinion, methods as good and efficacious as can be devised for local jurisdiction. But I do not think that jurisdiction can locally be well and sufficiently administered. Local jurisdiction generally gives rise to further litigation, as an appeal is frequently instituted to the principal Court, and in the present day, when communication has been rendered so easy by the electric telegraph and by railway, I am of opinion that a grant of jurisdiction to local Courts for the decision of questions which may arise at the different seaports is unnecessary.

7. It would be very difficult, indeed, to foresee what would be the effect of extensive and sweeping changes in the practice and jurisdiction of the High Court of Admiralty of Ireland, upon the amount of business to be transacted by the Court.

I think if the jurisdiction were enlarged, and the practice assimilated to that in England, that some increase, if not a material increase, would necessarily occur in the amount of business submitted for adjudication to the Court.

(Signed),

W. J. CORRIGAN.

William J.
Corrigan,
LL.D.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Answers
of Advoca-
tes.

Joseph
Faviere
Elrington,
LL.D.

6.—III. ANSWERS TO QUESTIONS addressed to ADVOCATES. JOSEPH FAVIERE ELRINGTON, LL.D.

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Answers
of Advoca-
tes.

Joseph
Faviere
Elrington,
LL.D.

1. I think it would be expedient to assimilate, as far as practicable, the practice and procedure of the High Court of Admiralty of Ireland to that of the High Court of Admiralty of England. This opinion, however, is based on the assumption that the jurisdiction of the Court in Ireland will be made the same as it now is in England. The practice and procedure of the English Court would be wholly unsuited to the Irish Court as it exists at present.

2. If the jurisdiction of the High Court of Admiralty of Ireland is made similar to that in England, I do not think there are any parts of the practice and procedure of the Court in Ireland which need be retained, when such practice or procedure is not adopted in England. But the employment of a shorthand writer at the hearing, as noticed at page 13 of Dr. Townsend's Statement, though not strictly part of the practice of the Irish Court, appears to me to be of great value. I am informed by Mr. Chamney that he has been employed to take shorthand notes of every case in the Court during the last fourteen years, and although this is now done by the consent of the parties, I think it should be made compulsory as part of the settled practice of the Court. The shorthand writer's notes at the hearing put an end to all questions as to what evidence has actually been given, for which purpose they are frequently appealed to, and on appeals the transmiss from the Court, by the aid of these notes, becomes an accurate transcript of the proceedings in the Court below. The assistance which such a transcript affords on appeals from the Court of Admiralty, contrasts very favourably, in my opinion, with the uncertainty which frequently exists, in consequence of the absence of any such accurate transcript of the proceedings at the trial, on new trial motions at law.

3. I think the jurisdiction of the Court of Admiralty of Ireland should be as extensive as that of the Court in England. This would bring the several matters mentioned in the third question under the jurisdiction of the Court in Ireland, as they have been already made subject to the jurisdiction of the Court in England. The want of this jurisdiction has frequently come to my notice in the course of my own practice. The absence of any power in Ireland to arrest a vessel in questions of contract, and the delay in the procedure of the Courts of Law, render many serious questions between masters (especially of foreign ships) and merchants, practically without remedy. But it is unnecessary, I think, to state any further reasons for the extension I have suggested, for the questions before the two Courts would be exactly of the same character, and would not present any of those local peculiarities which have been supposed to explain the difference between the practice and procedure of the Courts of Law and Equity in Ireland and the practice and procedure which exists in England.

4. No other extension of the jurisdiction of the Court in Ireland occurs to me as desirable, except, perhaps, as to the inquiries of the Board of Trade into the conduct of the officers of a ship, in cases of casualty at sea. In cases of collision, much of the evidence given in the Court of Admiralty at present directly affects the conduct of the officers, and I believe that if the Court of Admiralty conducted such inquiries, it would be a more satisfactory tribunal than the present.

5. There are several small particulars of the practice and procedure of the Court which might be simplified, though much has been already done in that direction by the present Judge of the Court. It is impossible for me

to specify them all here in detail. The Court should have the power of hearing a case on *vivâ voce* evidence, which can now be only done by consent. It should also be at liberty to decide a case on the evidence of one witness, instead of requiring that of two, as at present. Small cases should, I think, be proved, when convenient, by affidavit, and all the powers now possessed by the Courts of Law and the Court of Probate as to compelling the attendance of witnesses, should be given to the Court of Admiralty, which should be a Court of Record, and, in short, should be placed on the same footing as the Court in England. I think also that the appeal should lie from the Court of Admiralty to three Judges of some one of the Common Law Courts. I also think that the Court should have the power of deciding on questions even of small amount, if the parties desire it, and thus have a jurisdiction concurrent with the minor jurisdictions which have been already created. In such cases there can be no reason, that I can see, why the jurisdiction of the Court of Admiralty should be actually ousted by that of the Magistrates. There is no difficulty in disposing of such questions in a summary manner, by way of motion or summons, either on *vivâ voce* evidence or affidavit in the Court of Admiralty, without any pleading, quite as cheaply as the questions within their jurisdiction are now tried before Magistrates. In this way not only would the expense of an appeal be frequently saved, but the case would be disposed of by the Court of Admiralty upon much more satisfactory evidence than is ever transmitted by the magistrates when an appeal is brought from their decision to the Court of Admiralty, under the present practice.

6. The questions which arise between masters or owners of vessels and merchants, are not, in my opinion, of a nature to be well tried by local Courts. The amount in dispute forms no test of the difficulty or importance of such questions. I think the proper mode of dealing with them would be to introduce some such mode of hearing them as I have suggested in my last answer, and thus make the expense of having them decided by a competent tribunal as small as possible. I have already stated that such questions frequently cannot be tried unless there is a power of arresting the vessel, and thus securing some property by means of which the plaintiff may make his decree or order effectual. I certainly would not recommend that the jurisdiction of the Court of Admiralty, which enables it to arrest the property of the defendant in the first instance, should be intrusted to any local tribunal. Such a power of arrest involves very serious responsibility in its exercise, and is wholly unlike any proceeding now existing in Courts of Law, whether local or otherwise. It requires also of necessity that there should be a jurisdiction actually to sell the ship, and such a jurisdiction involves the nicest questions of ownership, mortgage, liens, &c., affecting very seriously the title of a purchaser, and, in my opinion, wholly out of the province of a local court. I may add that I do not think that any Court, whose jurisdiction is confined to small demands, should have the power of arresting a vessel in any case.

7. The business of the Court of Admiralty of Ireland has increased considerably since I first had any experience of its practice, and the changes I have proposed would still further, I have no doubt, tend to increase the business of the Court.

(Signed), J. FAVIERE ELRINGTON.

William
Monk
Gibbon,
LL.D.

6.—IV. ANSWERS TO QUESTIONS addressed to ADVOCATES. WILLIAM MONK GIBBON, LL.D.

William
Monk
Gibbon,
LL.D.

1. I consider that it is absolutely necessary that the law should be assimilated in this country with the law of the Admiralty in England. It is absurd that any difference whatever should exist as regards the Law Maritime between the two countries.

2. With regard to the practice, it is not so momentous; and the adoption of the English practice, either

in the whole or in part, may be left, in my opinion, to be settled hereafter by the Judge and the Practitioners of the Court of Admiralty.

3. I would strongly recommend the extension of the jurisdiction of the Court of Admiralty in both countries to all these matters.

4. I am of opinion that the provision of the 24 Vic.,

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cap. 10, sec. 6, should be extended to Ireland, and enlarged in England, to include all injuries to goods shipped in either country, as well as to goods imported into either of them, and to all goods carried, either on board the ship originally employed, or on board any ship into which they might be re-shipped or carried.

And I consider the right of set-off should be extended in both countries to all maritime contracts, as well as to questions of wages, and to which only it is now applicable.

5. I do not think any necessity exists for any further simplification of the law or practice for the purposes mentioned in this question.

6. I do not think that local jurisdictions can, with any advantage to the suitor, be created in this country.

7. I am of opinion that if the law of the Admiralty in England and in Ireland be assimilated, and the jurisdic-

tion extended to all cases of maritime contracts, including freight and demurrage, that the business to be transacted by the Court of Admiralty in Ireland will be materially increased. The jurisdiction in freight, and demurrage, and mortgage cases is much required in this country.

I am of opinion that a proper Court of Appeal from the decisions of the Court of Admiralty in Ireland is absolutely necessary, and should be provided for in any amendment of the law that shall be made. On this subject I would submit to the Commissioners that the most satisfactory Court of Appeal would be the Privy Council of England, with liberty for the counsel, proctors, or solicitors of the suitors in the Court below to carry and to prosecute their appeals in the Court above.

(Signed), WILLIAM MONK GIBBON.

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of Advoca-
tes.

William
Monk
Gibbon,
LL.D.

Charles H.
Todd,
LL.D.

6.—V. ANSWERS TO QUESTIONS addressed to ADVOCATES. CHARLES H. TODD, LL.D.

1 and 2.—I think it would be very expedient to assimilate the practice and procedure of the Courts of Admiralty in Ireland and England as far as practicable. In Ireland, for many years, the procedure and practice in the Court have been very inexpensive and simple, in consequence of reforms introduced by the practitioners in the Court, with the sanction of the Judge. The adoption of them, however, depends on the consent of the parties to a suit, which I have never known to have been withheld. Practically, the old forms of pleading have been abolished for years, and the evidence has been taken *vivâ voce*. This mode of procedure should be made compulsory, and the parties should not be permitted to prove their cases otherwise than by *vivâ voce* evidence, except by permission of the Court. In this respect, the English practice, as I understand it, might be improved. The present mode of pleading, by petition and defensive matter or defence, is as simple, short, and inexpensive as it can be made. In many respects, the present practice in Ireland is preferable to that in England, as I gather it from the Rules of the Court, published in the Appendix to Lushington's Report. It might be nevertheless improved in many respects, by abolishing the rules to plead, &c., for which a *præcipe* has been substituted in England, which appears to me also unnecessary. This part of the practice should be more assimilated to the practice at Common Law. The Irish mode of issuing a warrant is, in my judgment, better than the English, viz., an application to the Judge, rather than the Registrar. There are many minor improvements, which might be made in the practice, which, however, ought, in my opinion, to be made by rules of Court, and not by the legislature. This reform should be specially referred to the Judge and some of the senior advocates of the Court—the rules to be made by them, to be altered from time to time by the Judge, with the sanction of the Lord Chancellor. I do not think the English practice of references to the Registrar would be advantageously introduced into this country, but the practice in bottomry suits might be greatly improved, and rendered less expensive. The absurd rule, requiring two witnesses to every material fact, weighing the evidence rather by the number of witnesses than by their credibility, and which is, I believe, still observed in England, should be abolished. The evidence being taken *vivâ voce* renders it necessary to have a shorthand writer employed. For some years William Chamney, Esquire, Barrister-at-Law, has been the shorthand writer of the Court. He has been paid a certain fee agreed on by the parties, and has acquired an intimate knowledge of the practice of the Court, and a familiarity with the subjects discussed, which is of great importance in enabling him to perform his duties. It would be essential to have a permanent officer of this description. In cases in which it is intended to prosecute an appeal he should be required to lodge a copy of his notes of the evidence in the Registry, which should be the evidence in the cause, and alone referred to during the hearing of the appeal. The practice as to appeals requires much reform, by abolishing apostles, the transmiss, inhibition, &c., &c. The Court of

Appeal should be a permanent Court—either one of the Common Law Courts or a Court permanently constituted of three Common Law Judges, who should be bound to sit after every term to hear appeals; the practice should be assimilated to the practice of the Court of Appeal in Chancery. I have been informed by the present Registrar of the Court of Appeal, that formerly the Judges who were nominated in a commission of delegates to hear appeals from the Ecclesiastical and Admiralty Courts were paid a guinea a day, which was afterwards commuted into a fixed sum, and forms part of the present salary of the Common Law Judges. I do not know whether this is so. However, a small increase of income might be given to the Judges who might be appointed to be Judges of Appeal in Admiralty. This reform would expedite the hearing of appeals, do away with much unnecessary expense, and the Judges of the Court would become familiar with the law, and the questions likely to arise.

3. I think the Court of Admiralty is better constituted for the trial of such questions than a Court of Law and a jury, and that they would be tried by it much more cheaply.

4. The jurisdiction given to the Admiralty Court of England by the Act of 1861 might with benefit be conferred on the Irish Court, retaining, however, its ancient jurisdiction in material suits. The jealousy of the Common Law Courts, which has long since died away, deprived the English Court of this jurisdiction, and the Act of 1861 only partially restored it. It would have been better to have restored it altogether. Excluding the jurisdiction of the Court in cases where any part owner of a ship is domiciled in England or Wales at the time of the institution of the suit appears to me very objectionable—opening the door to an easy fraud. There is another provision in the Act of 1861 which appears to me objectionable, viz., that which disentitles a plaintiff in a suit for wages to his costs of suit, unless he recover more than £50. The jurisdiction of the Court in wages suits is most important and beneficial, and has always been favourably regarded by the Common Law Courts—even in times past, when they were particularly jealous of the Civil Law Courts. A whole crew join in one suit; they have immediate security for their demand by the arrest of the ship and bail; the proceedings are very summary and inexpensive. In such a suit the costs should be left to the discretion of the Judge, and not depend on the amount recovered. The Judge can best know, after hearing the case, if it has been vexatious, and in such case can refuse the costs.

5. If the practice and procedure be made conformable to the suggestions I have made in my answer to the first and second questions, such questions would be tried as cheaply and promptly as they well can be. There must always be disputes of so small an amount as to render it imprudent to litigate them.

6. The Chairmen of Counties have jurisdiction in such cases at present. They sit quarterly, and the proceedings in their Courts are very cheap. Local Courts of Admiralty, presided over by magistrates totally ignorant of law, would be most pernicious; and, considering

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the facilities and cheapness of modern travelling, I do not think it would be advisable that the Judge of the Admiralty should hold sittings in the provinces. It would be a most mischievous thing to give petty Courts power to arrest a ship.

7. I think the business of the Court would be increased, though not to any great extent. I form this opinion from the very small number of similar cases that now come before the Common Law Courts.

(Signed), CHAS. H. TODD.

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7.—I. ANSWERS to QUESTIONS addressed to PROCTORS. MATTHEW ANDERSON, Esq.

Answers
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ctors.

Matthew
Anderson,
esq.

No. 2, Inns'-quay, Dublin,
13th February, 1864.

GENTLEMEN,—In reply to your favour of the 23rd ulto., requesting answers to certain questions therein mentioned, I beg to refer you to the answers returned to the same questions by the Council of the Incorporated Society of the Attorneys and Solicitors of Ireland, in

the framing of which, as a member of the Council, I took a part, and in which I fully concur.

I am, Gentlemen, your obedient servant,
(Signed), MATTHEW ANDERSON.

Matthew
Anderson,
esq.

To Dr. W. N. Hancock and
H. R. Vaughan Johnson,
Esq., Secretaries.

Joseph
Henry
Doran,
esq.

7.—II. ANSWERS to QUESTIONS addressed to PROCTORS. JOSEPH HENRY DORAN, Esq.

Joseph
Henry
Doran,
esq.

1. In my opinion it would be expedient and advisable, as far as practicable, to assimilate the practice and procedure of the Admiralty Court in Ireland with that of the English Court of Admiralty.

2. I think no difference ought to exist as to the practice or procedure of the High Court of Admiralty with that of England, but I consider there are many portions of the Irish practice simpler, cheaper, and more expeditious than that of the English.

3. In my opinion this would be a most advantageous extension to the jurisdiction of the High Court of Admiralty of Ireland—to try those questions of freight and demurrage, and would be the proper tribunal to try those questions in.

4. I do not think there are any further extensions of the jurisdiction of the High Court of Admiralty in Ireland desirable beyond those set forth in the late Bill brought in to amend the practice and procedure of the Court by Mr. Maguire, M.P., and Mr. Longfield, M.P.,

and particularly that of the recovery of mortgages on vessels.

5. I do not think the proceedings of the Court of Admiralty could be simplified or lessened in expense, in cases between captains and owners of vessels and merchants, particularly from the late amended schedule of fees and charges fixed by the Court, even although the amount might be small.

6. I think the jurisdiction would be better exercised by having all the cases *tried in Dublin*, instead of a separate jurisdiction in the seaport towns, and would save all costs of appeals to the Court in Dublin, which might be very frequent.

7. I consider the changes as to assimilation, extensions of jurisdiction, simplification and expedition of proceedings, referred to above, would be most advantageous to the suitor and the public.

(Signed), JOSEPH HENRY DORAN,
Proctor.

John T.
Hamerton,
esq.,
Queen's
Proctor
for
Ireland.

7.—III. ANSWERS to QUESTIONS addressed to PROCTORS. JOHN T. HAMERTON, Esq., Queen's Proctor for Ireland.

John T.
Hamerton,
esq.,
Queen's
Proctor
for
Ireland.

GENTLEMEN,—I beg to acknowledge receipt of your letter of the 25th ult., enclosing copy of Dr. Townsend's Statement and queries thereon, and for the information of the Commissioners, I beg to submit the following as my replies.

1. In my opinion it is highly essential to the shipping interest of the United Kingdom, that the practice and procedure of the High Courts of Admiralty in England and Ireland should be assimilated, thereby affording shipowners the opportunity of deciding in either country when their vessels are attached, the course to be pursued in defending their property.

2. There are many parts of the practice and procedure of the High Court of Admiralty in Ireland which might be retained with great advantage to suitors, as being more simple and expeditious, and also cheaper than the English practice; first, from the issuing of the warrant to the perfecting of bail and release, all of which can be completed in a week, and often in a lesser period, in the Irish Court. Next, the mode of pleading in Ireland, is also, in my opinion, preferable to the practice in England, as in Ireland the petition fully sets out the plaintiff's case, and the defensive allegation contains the reply thereto, and any special matter the defendant may rely on, and it is rarely found necessary to plead further. The practice in England regarding pleadings is excessive and dilatory. First, there is a petition; next, the answer; third, the reply; and fourth, the rejoinder; and after all these there must be filed the conclusion, although it is true it may be filed after the second or third pleading. All those pleadings, including the conclusion, must be signed by counsel, thereby increasing expense. The practice of paying the officers by fees, should be abolished, they should be placed on salaries, and a fee fund created by means of stamps. I may

observe, with respect to the costs and fees of the two Courts, that those of the Irish Court are decidedly the lower of the two, as the schedule of proctor's fees now in use will show, a copy of which I beg to send herewith.

3. In my opinion the advantage to the shipping interest of extending the jurisdiction of the High Court of Admiralty of Ireland to questions of freight and demurrage, and other disputes between captains or owners of vessels and merchants, cannot be too highly estimated. I would also include claims for detention of ships, as it often happens that though there may be a charter-party and bill of lading, and the former provides for demurrage, still if the latter be in the hands of an endorsee, and only refers to the charter-party to ascertain the amount of freight, the shipowner cannot enforce the payment of demurrage by the consignee, but is driven to an expensive action for damages for detention of his ship against the charterer, who often is a foreigner, and whose liability is generally limited to the payment of the freight, should the cargo not be worth it, at the port of discharge. I therefore would add "claims for detention" to the jurisdiction of the Court, as well as freight and demurrage. As the law at present stands, if a foreign captain delivers a cargo in the month of June, and a dispute arises between him and the merchant as to freight or demurrage, he cannot have any trial at law until the following December. He therefore yields to the merchant's terms, as neither he nor his ship can be detained. And, again, if he does bring an action, he may be at the antipodes when it is ready for hearing.

If the jurisdiction in question be given to the Court of Admiralty, I would certainly recommend that the proceedings under it for freight and demurrage should not be by plea and proof, but by a summary motion directed to the defendant, requiring him in Dublin

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within two days, and in country cases within four days, to appear and file his defence to the monition, which should shortly state the charter-party and bill of lading and have an account at foot, showing the amount respectively due for freight and demurrage. On the defence being filed, the cause should be taken up on the following Court day, for no difficulty could arise in such cases, as to proof.

4. In reply to the fourth query, I think that the prize jurisdiction which the Irish Court of Admiralty possessed and exercised before the Union, should be restored to it. I am also of opinion that the Court should be empowered to entertain claims of ship-agents and brokers against foreign vessels for disbursements on their account, or for commission for procuring charters for them; but I would limit this power to foreign vessels.

I consider there are a class of cases, such as collision, abandonment of vessels, and stranding of vessels, in all of which causes may be pending in the Court of Admiralty, and concerning all or most of which the Board of Trade direct investigations to be held into the conduct of the master and officers of the ships so colliding, abandoned, or stranded, and go fully into the evidence and decide on the culpability of the parties before the cause comes on for adjudication in the Court of Admiralty, which is manifestly to the prejudice of one or other of the litigants. This course, I would suggest, should be altered, and the inquiry held by the Court of Admiralty, which could be done at the hearing of the cause. The nautical assessors of the Board of Trade could sit with the Judge to assist him with their nautical opinion, and the Court, when taking the evidence in the cause, could also take the evidence bearing on the points the Board of Trade would wish inquired into.

5. In reply to the fifth question, I cannot suggest any simplifications in practice or procedure, where the amount in dispute is small. In answering the third question I think I have suggested very simple procedure for the cases there referred to. As regards cases in which the Court now exercises jurisdiction, there are only three, viz., collision, bottomry, and materials, in which the Court is not tied up as to amount by statute, as no salvage suit can be instituted in it where the property is under the value of £1,000; and no suit for wages (save in some exceptional cases), where the amount claimed is under £50. The Court, no doubt, will have power to make rules for its future practice, which may simplify its ancient procedure; but I would suggest that in cases where the amount in dispute is small, say under £20, only half costs should be allowed, and also that only half stamp duty should be charged.

6. The only mode that suggests itself to me for the trial of small cases in Cork, Belfast, Waterford, and other seaport towns in Ireland, would be by the process

issuing from the Court in Dublin, directed to the Marshal, and on its return, then the Court should make an order, if the case were a fit one, referring the question in dispute to three Justices in the port where the question arose, reserving, however, a right of appeal. Should such a course be pursued, then it should be made obligatory on the Clerk of Petty Sessions (at the expense of the parties) to take a full and complete note of the evidence given, which, in case of an appeal, should form the evidence for the Court above. This is the only mode I can suggest for the trial of such questions. I certainly would not advocate giving jurisdiction to petty tribunals in seaports to seize and detain vessels irrespective of the Court of Admiralty; much hardship might be inflicted, and injury done to shipowners thereby.

7. With the Judge sitting, as at present, three days in the week (and oftener if required) throughout the year, I am of opinion, that the changes recommended would increase the business very largely. Should these changes be carried out, suitable offices at the Four Courts should be provided for the Registrar and his assistants, as also for the Marshal, and their attendance should be required daily, with the same holidays as in the English Court.

In conclusion I would call the attention of the Commissioners to the constitution of the present Court of Appeal, namely, the Court of Delegates, composed of three Common Law Judges and two civilians, selected by the Lord Chancellor, and which tribunal is most expensive and dilatory; in fact, so expensive as to deter parties in many cases from appealing. I would suggest that a new Court should be created, to be composed of the junior Judges of the three Law Courts; and by giving them some addition to their income, they should at all times be ready to hear appeals from the Court of Admiralty, and by the Registrar of that Court attending on the Judges as part of his duties, with the records and proofs given in the Court below, an appeal could be heard at a very trifling expense. If, however, such a tribunal be objected to, I would next suggest an appeal to the Judicial Committee of the Privy Council in England, before which appeals from the English Court are heard.

I have the honour to be, gentlemen, your obedient servant,

(Signed), JOHN T. HAMERTON,
Queen's Proctor for Ireland.

To W. Neilson Hancock, Esq., LL.D.,
and
H. R. Vaughan Johnson, Esq.,
Secretaries,
High Court of Admiralty (Ireland) Commission,
Four Courts.

In the HIGH COURT OF ADMIRALTY OF IRELAND.— PROCTOR'S FEES.

By consent of the several Proctors of this honourable Court, testified by their signing hereof, it is this day ordered by the Judge, that from and after the 1st day of January, 1857, the following Schedule of Fees be adopted by, and allowed to the Proctors of this Court, in causes and matters pending therein:—

SCHEDULE.

	£	s.	d.
1. Attending Judge moving for fiat,	0	6	8
2. Attending in Court each Court-day a cause is pending, if any business is done in it, This charge to cover all acts in the case on that day, whether by him or opposite Proctor.	0	6	8
3. Attending motion in Court, when moved by counsel,	0	13	4
4. Attending on hearing of cause each day, To include and cover all fees on that day for motions, rules, exhibits, or production and examination of witnesses, examined <i>vidé voce</i> .	2	2	0
5. Attending giving or taking bail,	0	6	8
6. Attending inquiring as to solvency of bail,	0	6	8
7. If bail taken in the country—attending on same per correspondent, including instructions to him,	0	13	4

SCHEDULE—continued.

	£	s.	d.
8. Attending on Commission for examination of witnesses in the country (when necessary), per diem, including hotel expenses, Travelling expenses to be allowed by distance.	3	3	0
9. When an examination <i>in scriptis</i> is necessary in town:—			
Attending witness, taking notes of his evidence,	0	6	8
Docket to examiner, or for examination and copy,	0	3	4
Attending examiner with witness,	0	6	8
Attending Judge when witness repeated,	0	6	8
10. Attending on a witness taking notes of his evidence, previous to his examination <i>vidé voce</i> ,	0	6	8
11. Attendance in Dublin per hour,	0	6	8
12. Attendance of Proctor from home when necessary, for each day, including hotel expenses, Travelling expenses to be allowed in addition.	3	3	0
13. Attending Registrar for Summons, or to lodge notice of motion,	0	3	4
14. Attending Marshal lodging warrant or other process,	0	3	4
15. Attending Marshal with commission of sale and giving instructions,	0	6	8
16. Attendances, all necessary attendances on counsel or otherwise, each,	0	6	8
17. Attending taxing costs in a cause, For taxing costs of motion or over-bidding,	0	3	4
18. Attending to settle, including receipt,	0	6	8

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		£	s. d.
19.	Attending giving or taking undertaking, including undertaking,	0	6 8
20.	Affidavits of execution of warrant or service of any process, in all, to include drawing, engrossing, and signing by Proctor,	0	10 0
21.	Affidavits other than as above, draft, for every folio of ninety words,	0	1 0
	Engrossing per folio,	0	1 0
	Fair copies of same,	0	0 6
	Signing same,	0	3 4
22.	Brief, draft containing five office sheets of ninety words,	0	3 4
	This only to apply to drafts actually made of case, proofs, or other like matter.		
	No draft brief of pleadings or documents to be allowed.		
23.	Fair copy brief of pleadings, documents, case and proofs, per sheet,	0	2 0
23a.	Cash, for all attendances to draw or lodge cash,	0	13 4
24.	Case, draft case to advise or direct proofs when necessary, for five folios, or under,	0	3 4
	Copy for counsel,	0	2 0
25.	Citation, commission, precept, monition, release, or attachment, Proctor's fees thereon,	0	6 8
26.	Commission of unlivery and sale, or commission of sale,	0	13 4
	This to include attendance on Registrar and Seal Keeper, and extracting and subscribing.		
27.	Consent, drawing same,	0	5 0
	Copy, 6d. per folio.		
28.	Copies of writs, orders, notices, summonses, each,	0	1 0
	Copies of all deeds, documents, or pleadings, per folio,	0	0 6
29.	Costs draft, per page (post paper),	0	1 0
	Copy each, per ditto,	0	0 6
	To be allowed against the opposite party only, no charge against client.		
	Examining costs of opposite Proctor for taxation,	0	3 4
	Like of costs of motion or over-bidding,	0	1 8
30.	Docket of retainer or refresher, or other short instructions to counsel,	0	3 4
	For each additional counsel,	0	2 0
31.	Extracting and comparing attested copies, pleadings, orders, exhibits, &c., each,	0	6 8
	This to cover the fiat to Registrar, and all attendances.		
	If several copies taken out at same time or for same purpose, a fee to be allowed according to number and length, but not to exceed	2	2 0
32.	Instructions for affidavit (not affidavits of execution of process or affidavit of service),	0	6 8
33.	Instructions for libel or other pleading, including all readings,	0	13 4
34.	Letter, writing and entering,	0	3 4
35.	Notice, draft, two copies and service,	0	6 0
36.	Pleadings and decrees, drawing each, if under one skin of ten folios,	0	13 4
	If longer, per folio of ninety words,	0	1 0
	Engrossing pleadings, like charges.		
	Copy for Advocate, per folio,	0	0 6

SCHEDULE—continued.	£ s. d.	
	£	s. d.
Fair copy, for office use, of party's own pleading, per folio,	0	0 6
No fair copies of attested copies to be allowed for office use, whether of pleadings, affidavits, or orders.		
37. Proxy,	0	3 4
38. Retaining fee for intervenient or impugnant, or for promovent proceeding by monition,	0	6 8
The promovent's retaining fee, where he proceeds by warrant, is included in charge for warrant.		
39. Sale, attending same personally or by correspondent,	0	13 4
40. Stipulation, Proctor's fee on bespeaking, extracting, comparing, and signing,	0	6 8
41. Examining same by opposite Proctor,	0	3 4
41a. Search for every ten years back,	0	6 8
42. Signing pleadings affidavits, or other documents requiring signature (except writs),	0	3 4
43. Summons, filling same and signing,	0	3 4
44. Term fee,	0	6 8
45. Warrant, inclusive of term and retaining fee, affidavit, proxy, seal, and Registrar's fees, instructions for execution and copies to post,	2	2 0

All fees for imaginary services to cease, including fees on exhibits, act of opposite Proctor, flats to Registrar for writs, copies, orders, or pleadings, and fees on production or examination of witnesses examined *vidé voce*, also fee for comparing costs with records, and fees on exhibiting and confirming costs.

No copies orders to be taken out or charged for, unless requisite to enforce obedience thereto, or orders to show cause or to take bail in the country, or of the like nature.

A case to direct proofs, or a consultation of counsel, to be allowed against opposite party, only in special or difficult cases.

Only one counsel on a motion and two at a hearing, to be allowed against opposite party, unless in special or difficult cases, to be certified by the Judge.

(Signed), JOHN McLAUGHLIN,
MATTHEW ANDERSON,
CLEMENT R. TAYLOR,
JOHN T. HAMERTON,
ROBERT C. LEE,
ARTHUR McCORKELL,
JOSEPH H. DORAN,
WILLIAM RICHARDSON, } Proctors of Admiralty.

Approved, and ordered accordingly, in Court,
Dublin, 19th December, 1856.

(Signed), THOMAS F. KELLY,
Judge of the High Court of Admiralty of Ireland.

Robert C.
Lee, esq.

7.—IV. ANSWERS to QUESTIONS addressed to PROCTORS. ROBERT C. LEE, Esq.

Robert C.
Lee, esq.

GENTLEMEN,—In reply to the questions referred to in your letter of the 25th day of January, 1864, I beg to transmit my answers as follow :—

1. My opinion is, that it is very desirable and expedient that, as far as practicable, the practice and procedure of the High Courts of Admiralty of England and Ireland should be assimilated.

2. There are many parts of the practice and procedure of the High Court of Admiralty of Ireland which ought to be retained in Ireland, though no corresponding practice and procedure have been adopted in England.

The practice of the Court of Admiralty of Ireland (as reformed by agreement amongst the Proctors and sanctioned by the Judge) is much more prompt and inexpensive than the present practice of the Court of Admiralty of England. The Irish Court sits every second day throughout the year, if there is business to be done; and if the Judge be absent from Dublin he leaves a Surrogate to act for him. The time allowed in England for appearance, pleading, &c., is much longer than that allowed in Ireland.

3. My opinion is, that it will be a very great advantage to the mercantile and shipping interests (and especially to foreigners) to extend the jurisdiction of the High Court of Admiralty of Ireland to questions of

demurrage, freight, and all other questions of dispute between captains or owners of vessels and merchants.

4. There are other extensions of the jurisdiction of the High Court of Admiralty which I would think desirable, namely, questions in dispute between holders of bills of lading and captains of ships for detention or for freight, damage to cargo, deficiency of cargo, charter-parties, as also questions of general average, marine insurance, pilotage, &c. In fact every question which may arise with regard to shipping should, in my opinion, come within the jurisdiction of a Maritime Court (though without taking away the jurisdiction of the Courts of Law and Equity), especially as the cases may be heard and decided cheaply at any time of the year without having to wait for terms or after sittings.

5. If this question only refers to "questions (of small amount) between captains or owners of vessels and merchants," I would suggest that a very summary and inexpensive practice for the decision of such questions in dispute between captains or owners of vessels and merchants, and other questions where the sum in dispute is of small amount, might (under General Rules to be framed by the Court) be tried by summons (as in cases before magistrates), specifying the cause of complaint, and requiring defendant to attend before the

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Robert C.
Lee, esq.

Judge in Chamber by a short day, who might, without any pleadings, decide the dispute on the evidence produced. Questions of *large* amount between captains or owners of vessels and merchants I would leave to be decided according to the ordinary practice of the Court.

6. The jurisdiction of the Court for the decision of such questions, namely, questions of *small* amount between captains or owners of vessels and merchants, ship-brokers, pilots, or other persons, might, perhaps be best exercised at the seaports by summons before two magistrates, with an appeal to the Court of Admiralty. I do not, however, think it desirable that a local jurisdiction should be created; but in case it be, a prompt appeal might be best secured by requiring it to be brought and decided within a week or a fortnight, appellant lodging (say) £10 as a guarantee, or in case of foreigners the amount, if any, in which the appellant has been condemned and £10.

7. In my opinion the effect of the changes I have suggested as to assimilation, extension of jurisdiction, and simplification or expediting procedure, would vastly increase the amount of business to be transacted.

If the Court found favour with the mercantile and

shipping interests, as I presume it would from its sitting at all times of the year and deciding cases summarily and at small expense, all the questions above referred to would probably find their way into this Court in preference to the Courts of Common Law and Equity.

The Court of Admiralty, as at present constituted, and with its limited jurisdiction, is obliged to sit all the year round to get through its limited business. I therefore think the changes above contemplated would involve the necessity of a very large additional staff of officials, a suitable Courthouse, offices for Registrar, Examiner, Seal-keeper, Marshal, and their clerks.

I am, gentlemen,

Your obedient servant,

(Signed),

ROBERT C. LEE,

Proctor of Admiralty.

To W. Neilson Hancock, Esq.,
H. R. Vaughan Johnson, Esq.,
Secretaries.

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AND PRO-
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of Pro-
ctors.

Robert C.
Lee, esq.

William
Richard-
son, esq.

7.—V. ANSWERS to QUESTIONS addressed to PROCTORS. WILLIAM RICHARDSON, Esq.

1. I do not believe that justice has been, or can be, duly administered in the Admiralty Court of Ireland, in the absence of such assimilation.

2. Too much time is allowed (without leave of the Court) for rules running in England. Too much print is also wasted, in ordinary cases, in the English Court.

I also consider that the taking of the evidence by a shorthand writer in the hearing of a cause *viva voce* in the Irish Court, should be retained. Such a practice is a security for truth, and, besides relieving the Judge of the most arduous duty of transcribing evidence, avoids all the expense and delay of detaining witnesses for further examination. In nineteen out of twenty cases of appeal I have found that suitors would rather abandon their rights than run the risk of detaining nautical witnesses for further examination.

3. I believe there can be no due protection to foreign, and even British shipowners, without such an extension of jurisdiction. I could detail *innumerable instances* of shipowners foregoing considerable sums, and abandoning large claims, rather than encounter the delays and technicalities of an action at common law. At the same time all honest merchants would be equally desirous for such an extension of jurisdiction, as well for the protection of their foreign correspondents, as for their own security.

4. I am of opinion that the jurisdiction of the Court should be extended to every question pertaining to a ship, the contract, loading, carriage, and delivery of

her cargo, and in relation to her ownership, master, and crew; such jurisdiction, if the Court be a necessity at all, is its natural province.

5. The practice, in my opinion, should be simplified by the process in these cases being entirely confined to a summons to appear, say in two days, and to a hearing taking place on said summons, as in the County and Civil Bill Courts.

6. I am of opinion that such a jurisdiction would be best exercised at the out-ports, by there being, say, a first, second, and third Admiralty advocate, who, for the fee now allowed advocates when selected as Judges of Appeal, with necessary travelling expenses, should, as required, proceed periodically to such ports, for the adjudication of these causes. I think these advocates might take the evidence to be used, if necessary, on appeal. And such evidence would I think, with the original documents, as marked by the advocate, be an ample record for the review of the Judge of the Court of Admiralty. The appeal might be instituted by extracting a simple order from the Registry of the Court of Admiralty, grounded, if necessary, on a short affidavit of the appellant as to the *bona fides* of the appeal, &c.

7. I believe that the effect of the changes referred to, would be to increase the business more than twenty-fold.

(Signed),

WILLIAM RICHARDSON,

Admiralty Proctor.

William
Richard-
son, esq.

Answers
of Council
of Incorporated
Society of
Attorneys
and Solicitors.

8.—ANSWERS to QUESTIONS addressed to the COUNCIL of the INCORPORATED SOCIETY of ATTORNEYS and SOLICITORS of IRELAND.

The COUNCIL of the INCORPORATED SOCIETY of the ATTORNEYS and SOLICITORS of IRELAND submit the following observations on the queries of the High Court of Admiralty Commission in relation to the present practice of the Court in Ireland.

1. We think that, on principle, where the questions involved are identical the practice and procedure in the two Courts ought to be the same.

2. Being of opinion that in the abstract they should be assimilated, we are at a loss for reasons to recommend the continuance in either Court of a course of procedure different from that in the other.

3. We can see great advantage to the public by investing the Court of Admiralty with the extended jurisdiction here mentioned, provided there be secured, by legislative enactment, the constant attendance of the Judge of the Court or a sufficient deputy, so that the business of the Court may be done at all times of the year, and not, as in the other Courts, suspended at certain seasons for three months or more.

4. We are not aware of any particular extensions of jurisdiction that might be advantageously given to the Court of Admiralty; but we would say, in general terms, that it should have cognizance, if not exclusively, at least co-ordinately, with other Courts, of all questions relating to ships, shipping, charter-parties, freight, demurrage, disputed accounts between owners of ships or cargoes, and between captains, their crews, and owners.

5. We think the present antiquated practice of pleading in the Court by libel or allegation and defensive matters should be abolished, and that there should be substituted therefor simple pleadings, detailing the particulars of the plaintiff's demand and of the defences thereto, and that the evidence should, as a rule, be *viva voce*; and by Commission *in scriptis* only the exception

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of Incorporated
Society of
Attorneys
and Solicitors.

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of Incorporated
Society of
Attorneys
and Soli-
citors.

—that the Judge should, at the instance of either party, have power to call in the aid of either a special or common jury; and that all barristers and solicitors should have the right to practice and sign pleadings as advocates and proctors now have; the former to have their position according to their standing at the bar, and not as they stand on the roll of advocates.

6. We cannot see the advantage, so as to induce us to recommend the establishment of local jurisdictions in remote seaports, as we think that the Court in Dublin, with extended powers and full summary jurisdiction,

would meet all the exigencies of the country at large.

7. We have no doubt the changes suggested would have the effect of greatly increasing the business of the Court.

By order,

(Signed,) EDWARD LLES, Secretary.

Solicitors' Buildings, Four Courts,
Dublin, 16th February, 1864.

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DICTION,
PRACTICE,
AND PRO-
CEDURE.

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of Council
of Incorporated
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and Soli-
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Questions
addressed
to Cham-
bers of
Com-
merce,
Ireland.

9.—QUESTIONS referred to in CIRCULAR to CHAMBERS of COMMERCE in IRELAND.

1. What is your opinion as to the expediency of assimilating, as far as practicable, the practice and procedure of the High Court of Admiralty in Ireland to the practice and procedure of the High Court of Admiralty in England?

2. Are there any and what parts of the practice and procedure of the High Court of Admiralty in Ireland which ought, for any and what reasons, to be retained in Ireland, though no corresponding practice and procedure be adopted in England?

3. What is your opinion as to the advantage or disadvantage of extending the jurisdiction of the High Court of Admiralty in Ireland to questions of demurrage, freight, and all other questions of dispute between captains or owners of vessels and merchants?

4. Are there any other extensions of the jurisdiction of the High Court of Admiralty in Ireland which you would think desirable?

5. Are there any simplifications of the practice and procedure of the Court which you would suggest, for the purpose of securing the cheap and prompt decision of all questions in dispute between captains or owners of vessels and merchants, and other questions where the sum in dispute is of small amount?

6. In what manner would, in your opinion, the jurisdiction of the Court for the decision of such questions be best exercised at Cork, Belfast, Waterford, and other seaports distant from Dublin; and in case a local jurisdiction were created, in what manner would a prompt appeal to the Court in Dublin be best secured?

7. Have you any suggestions to offer, as to improvements of the practice and procedure, or jurisdiction of the High Court of Admiralty in Ireland, which in your opinion would be serviceable to the Trade and Commerce of Ireland?

Questions
addressed
to Cham-
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Com-
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Ireland.

Answers
of Cham-
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Dublin.

10.—I. ANSWERS to QUESTIONS addressed to CHAMBERS of COMMERCE. COUNCIL of DUBLIN CHAMBER of COMMERCE.

1 and 2. The Council are clearly of opinion that the practice and procedure of the Courts of England and Ireland should be assimilated; and that such alterations should be made in both as would give to the United Kingdom the advantage of the best portions of the practice and procedure of each.

It is a reproach to our Commercial Legislation, as well as inconsistent with public and international policy, that vessels arriving in ports of the United Kingdom within a few hours sail of each other, should be subject to different laws, and to different practice and procedure in the Courts of Admiralty.

3. The Council are of opinion that it would be most desirable to give to the Courts of Admiralty in England and Ireland power to deal promptly and inexpensively with all questions of this character.

4. The Council are of opinion that the Court of Admiralty of Ireland should possess in Ireland all the

jurisdiction possessed in England by the Court of Admiralty of England.

5. This is a question rather for legal than mercantile men to answer; but the Council would rejoice to see any arrangement which would tend to a prompt and cheap decision of such cases.

6. The Court might appoint a stipendiary magistrate, or, in his absence, two local magistrates, in each port to decide such questions; the best mode of accomplishing a prompt appeal is a professional question.

7. The answer to this is embraced in the previous replies.

By order of the Council,

(Signed), FRANCIS CODD,
Honorary Secretary.

Chamber of Commerce,
2nd February, 1864.

Answers
of Cham-
bers of
Com-
merce,
Dublin.

Belfast.

10.—II. ANSWERS to QUESTIONS addressed to CHAMBERS of COMMERCE. LETTER from COUNCIL of BELFAST CHAMBER of COMMERCE, enclosing Communications received by them.

Chamber of Commerce, Belfast,
4th February, 1864.

GENTLEMEN,—I am instructed by the Council of this Chamber to send you copies of the replies received from four firms in Belfast in answer to a request from the Council that they would fill up the query sheets received from you as to the practice and procedure of the Courts of Admiralty in England and Ireland.

The Council prefer to send you these replies in this form, as the parties are all conversant with the working of the Irish Court.

Your obedient servant,

(Signed), SAMUEL VANCE,
Secretary.

W. Neilson Hancock, LL.D., and
H. R. Vaughan Johnson, Secretaries.

Communi-
cation of
James
M'Lean,
esq.,
Solicitor,
to Belfast
Chamber
of Com-
merce.

10.—II. A. COMMUNICATION of JAMES M'LEAN, Esq., Solicitor, to Belfast Chamber of Commerce, referred to in Letter of Council.

1. It is very desirable to assimilate as far as practicable the practice and procedure of the Irish with the English Courts.

2. This question can be best answered by an advocate who is acquainted with the advantages and disadvantages of the two systems. In my opinion it should be

simplified, and the pleadings made to correspond with those of the Law Courts as far as possible.

3. It often occurs that foreign ship-masters incur debts, both personal and for the ship, and when these debts do not amount to £20, the master cannot be summarily arrested, and he is thus enabled to go to sea, and

Communi-
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James
M'Lean,
esq.,
Solicitor,
to Belfast
Chamber
of Com-
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cation of
James
M'Lean,
esq.,
Solicitor,
to Belfast
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thereby defraud the honest trader. Jurisdiction should be given to the Court above, and to a local Court, where such may exist, on a proper affidavit of facts and of the intention of captain to go to sea, to arrest the ship, if debt contracted for the ship, or the captain if on his own account, or any of the crew if on their account, until satisfactory security be given for payment of the debt, or surrender of the ship or person of party arrested.

4. If the last question does not include the power to remove captains by part owners, for misconduct, and questions of damages to cargoes for want of sufficient average, &c., these powers ought to be included.

5. In every case where the merchant raises a dispute with a captain, it is desirable that the ship, whether foreign or home ship, should be prevented from sailing until proper security be given. This may be done by a local Judge at once giving an attachment on affidavit of facts, to be decided as in next answer.

6. The jurisdiction of the Court of Admiralty for the decision of cases might be best exercised in seaport towns by giving jurisdiction to a Recorder, where such

exists, or the Chairman of Quarter Sessions, who should reside in his County, and hold Courts weekly for the hearing of such cases. Where such jurisdiction would exist there should be a prompt appeal to the Court in Dublin. The party below, immediately after the decision of the local Judge, should serve a notice containing his objections to the decision either in point of fact or law. The same could be forwarded by the Registrar to the Court in Dublin by way of appeal, and if not argued or brought before the Court within one week by the party appealing, the appeal to be treated as abandoned, and the local Judge's decision allowed to stand. The party appealing to give forty-eight hours notice of his intention to prosecute appeal; and in the event, after such notice, of his not doing so, the Court above to affirm decision of local Judge, with costs.

7. The Court should be open to all barristers and solicitors to practise in. With regard to the practice and procedure, it should be simplified, and the pleadings made to correspond with pleadings in the Law Courts as far as possible.

(Signed), JAMES M'LEAN.

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CEDURE.

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of Cham-
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Communi-
cation of
James
M'Lean,
esq.,
Solicitor,
to Belfast
Chamber
of Com-
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Communi-
cation of
Robert
Boyd, esq.,
to Belfast
Chamber
of Com-
merce.

10.—II. B. COMMUNICATION of ROBERT BOYD, Esq., to Belfast Chamber of Commerce, referred to in Letter of Council.

DEAR SIR,—Mr. Alexander M'Laine and I have gone over the questions submitted to us on the subject of the proposed assimilation of the practice of the English and Irish Courts of Admiralty, and we now give you our replies thereto.

We are of opinion that the Chamber should use every possible exertion to procure the appointment of a Recorder's Court in Belfast, as the expense and delay attending an appeal, &c., in the Admiralty Court often deters parties from taking that step, and the expense, even in a successful case, being very heavy.

Yours, &c.,

(Signed), ROBERT BOYD.

Samuel Vance, Esq.,
Secretary.

1. Favourable.

2. We consider it highly desirable that the maritime lien exercised by the *Irish* Courts over vessels not

registered in Ireland, should be continued. We refer to the lien in favour of parties supplying necessities, enabling vessels to go to sea and earn freight—said necessities having been supplied upon the credit of the vessel, and not upon personal credit. We consider this lien perfectly just and equitable, and calculated to facilitate the speedy equipment of vessels sustaining damage, and putting into an Irish port for repairs.

3. Favourable.

6. We consider it would be eminently advantageous to give a Belfast Recorder's Court jurisdiction to the amount of £50 over cases of collision, towage, demurrage, disputes between owners or captains of vessels and merchants; wages of captain and crew; and generally of all cases connected with vessels, to said amount, with arrangements for prompt appeal to the Admiralty Court. We consider a Belfast Recorder's Court should have power of attachment until security be given in all cases of claims against vessels not registered in Ireland.

Communi-
cation of
Robert
Boyd, esq.,
to Belfast
Chamber
of Com-
merce.

Communi-
cation of
Charles
Duffin, esq.,
to Belfast
Chamber
of Com-
merce.

10.—II. C. COMMUNICATION of CHARLES DUFFIN, Esq., Merchant, to Belfast Chamber of Commerce, referred to in Letter of Council.

1. Quite of opinion that the jurisdiction and proceedings of the Admiralty Courts of both countries should be identical.

2. None that I know of.

3. If allowed in England to be extended to Ireland; not otherwise.

4. None.

5. I would do away with Admiralty Courts *in toto*, and send all Admiralty cases to the County or Assize Courts, as may be deemed expedient.

6. Answered above.

7. Answered above.

(Signed), CHARLES DUFFIN, Merchant.

Communi-
cation of
Charles
Duffin, esq.,
to Belfast
Chamber
of Com-
merce.

Communi-
cation of
Messrs.
Johns,
Hewitt,
and Johns,
Solicitors,
to Belfast
Chamber
of Com-
merce.

10.—II. D. COMMUNICATION of MESSRS. JOHNS, HEWITT, and JOHNS, Solicitors, to Belfast Chamber of Commerce, referred to in Letter of Council.

1. We think the practice and procedure of the High Court of Admiralty in Ireland should be assimilated, as far as practicable, to that of the High Court of Admiralty in England.

2. We think that the practice of the High Court of Admiralty in Ireland, not to sell until after the determination of the suit, although contrary to the practice in England, should be retained, unless in each case the Judge be satisfied that an immediate sale would be advantageous to the parties really interested.

3. We are not of opinion that it would be advantageous to extend the jurisdiction of the High Court of Admiralty in Ireland to questions of demurrage, freight, and other questions of dispute between captains or owners of vessels and merchants. It seems to us

much better to leave these questions to be decided by the ordinary tribunals of the country, which have hitherto taken cognizance of them, than to introduce a new and, therefore, experimental tribunal for their determination, the more particularly having regard to the difficulties at present existing in enforcing decrees and orders of the High Court of Admiralty in Ireland.

4. We think the jurisdiction of the High Court of Admiralty in Ireland ought to be extended, so far as to assimilate it in every way to the jurisdiction of the High Court of Admiralty in England, but no further.

5 and 6. As already stated, we are not of opinion that the Court of Admiralty should have jurisdiction with respect to questions in dispute between captains or owners of vessels and merchants. With respect to

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Messrs.
Johns,
Hewitt,
and Johns,
Solicitors,
to Belfast
Chamber
of Com-
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bers of
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cation of
Messrs.

Johns,
Hewitt,
and Johns,
Solicitors,
to Belfast
Chamber
of Com-
merce.

other questions where the sum in dispute is of small amount, and where the Court of Admiralty, when assimilated to the English Court, would have jurisdiction, we think the parties might, with advantage, be brought before the Stipendiary Magistrate in such places as Cork, Belfast, Waterford, and other seaports distant from Dublin, upon summons, for the summary determination of such questions; and in such cases we think a prompt appeal to the Court in Dublin would be best secured by the Magistrate stating a case for the opinion of the Court, which could be argued by the advocates on both sides, if necessary.

7. We are of opinion that the practice and procedure of the High Court of Admiralty in Ireland would be greatly improved by the establishment of Local Courts in large seaport towns. These Courts might be presided over by the Recorder of the town, and in case of no Recorder, we think a Surrogate should be appointed. The local Court thus established might have jurisdiction in all Admiralty cases, with an appeal to the Court in Dublin. We think the Court, Recorder, or Surrogate should have power in all cases in which it had jurisdiction to summon the parties in the first instance, without the institution of any suit, and in case it appeared that the parties were bound to arbitrate, or that the question in dispute was one of account, to enforce an arbitration. We also think that every case of importance should be tried by a jury, which, according to the case, should be either mercantile or nautical. We also think that the evidence should be taken *viva voce*, and that the judgment should be in

accordance with the verdict, except set aside as at Common Law. We think the appeals from local Courts to the Court in Dublin would be best carried out by a certificate from the Recorder, or Surrogate, stating the proceedings and evidence, as in the case of a Judge's certificate on motion for new trial at Common Law, which should be granted upon the application of either party, provided the Recorder, or Surrogate, believed the party had reasonable grounds for appealing, and intended doing so. We think the appeal from the Court in Dublin should be to the Exchequer Chamber, and should be conducted in the same manner as if an appeal at Common Law. We do not consider an appeal to the Delegates, as it now exists, at all satisfactory.

In conclusion, it occurs to us that it would tend greatly to the advantages of trade and commerce in Ireland if power were given to some local authority, such as the Stipendiary Magistrate or Mayor, in places like Belfast, to summon the parties disputing; and in case it appeared that the matter in dispute was one which the parties had agreed to refer to arbitration, or that it was one involving a matter of account only, or that the sum in dispute did not amount to more than £30, to compel the parties to arbitrate the case; and in case either party failed to appoint an arbitrator approved of, the Magistrate or Mayor to name one for him, and generally to take such other steps in relation to the arbitration as might be necessary to make it effectual.

(Signed), JOHNS, HEWITT, AND JOHNS,
Solicitors.

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AND PRO-
CEDURE.

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of Cham-
bers of
Com-
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Communi-
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Messrs.

Johns,
Hewitt,
and Johns,
Solicitors,
to Belfast
Chamber
of Com-
merce.

Answers
of Cham-
bers of
Com-
merce.

Water-
ford.

10.—III. ANSWERS TO QUESTIONS addressed to CHAMBERS of COMMERCE. CHAMBER of COMMERCE, WATERFORD.

1. It is very desirable to assimilate in every respect the practice and procedure of the two Courts.
2. Not aware of any.
3. Considering the expense, we think it would be disadvantageous.
4. We prefer adopting No. 1.
5. We are not prepared to suggest any, except as suggested in Answer No. 6.
6. We would suggest a Marine Board, to comprise

the Mayor, Stipendiary Magistrate, and at least three members of the Chamber of Commerce, to be approved of by the Board of Trade.

7. In case of questions of collision, it seems desirable that the Judge should be assisted by a jury of five or more nautical men.

(Signed), GEORGE GIBSON, *Secretary*,
Chamber of Commerce, Waterford.

Answers
of Cham-
bers of
Com-
merce.

Water-
ford.

Questions
addressed
to Consuls
of Foreign
States
resident in
Dublin.

11.—QUESTIONS referred to in CIRCULARS to CONSULS of FOREIGN STATES resident in Dublin.

1. What is your opinion as to the expediency of assimilating, as far as practicable, the practice and procedure of the High Court of Admiralty in Ireland to the practice and procedure of the High Court of Admiralty in England?
2. Are there any and what parts of the practice and procedure of the High Court of Admiralty in Ireland which ought, for any and what reasons, to be retained in Ireland, though no corresponding practice and procedure be adopted in England?
3. What is your opinion as to the advantage or disadvantage of extending the jurisdiction of the High Court of Admiralty in Ireland to questions of demurrage, freight, and all other questions of dispute between captains or owners of vessels and merchants?
4. Are there any other extensions of the jurisdiction of the High Court of Admiralty in Ireland which you would think desirable?

5. Are there any simplifications of the practice and procedure of the Court which you would suggest for the purpose of securing the cheap and prompt decision of all questions in dispute between captains or owners of vessels and merchants, and other questions where the sum in dispute is of small amount?

6. In what manner would in your opinion the jurisdiction of the Court for the decision of such questions be best exercised at Cork, Belfast, Waterford, and other seaports distant from Dublin; and in case a local jurisdiction were created, in what manner would a prompt appeal to the Court in Dublin be best secured?

7. Have you any suggestions to offer, of improvements in the practice, procedure, or jurisdiction of the High Court of Admiralty in Ireland, which would in your opinion be serviceable for the development of the foreign trade and commerce of Ireland?

Questions
addressed
to Consuls
of Foreign
States
resident in
Dublin.

Answers
of Consuls
of Foreign
States.

M. G.
Livio,
Consul for
France.

12.—I. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. M. G. LIVIO, Consul for France.

Chamber of Commerce, Waterford.

Answer to questions 3 and 4:—

From the experience acquired in my consulate, I think it would be most desirable that a speedy and inexpensive mode of procedure for the settlement of disputes between captains or owners of vessels and merchants, relating to demurrage, freights, and similar ques-

tions, should be adopted. Such questions being speedily settled in most countries in the Continent by tribunals of commerce, consisting of merchants elected by the commercial communities, I would direct the attention of the Commission to the benefits derived from such a system intrusted to the decision of men specially conversant with all the difficulties arising from transactions

Answers of
Consuls of
Foreign
States.

M. G.
Livio,
Consul for
France.

JURIS-
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PRACTICE,
AND PRO-
CEDURE.

Answers
of Consuls
of Foreign
States.

Le Che-
valier
Marani,
Consul for
Italy.

of this nature, and fully aware of the value of time to men engaged in these pursuits. In the absence of such tribunals, the High Court of Admiralty would seem, by its experience of the shipping interest, and by its per-

manent sittings, to be far better calculated than the Civil Courts for the adjustment of the above cases.

(Signed),

G. LIVIO,
*The Consul of His Majesty the
Emperor of the French.*

JURIS-
DICTION,
PRACTICE,
AND PRO-
CEDURE.

Answers
of Consuls
of Foreign
States.

Le Che-
valier
Marani,
Consul for
Italy.

12.—II. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. LE CHEVALIER MARANI, Consul for Italy.

1. I think it would be of the greatest advantage, inasmuch as I believe that the administration of the Law should be the same in every part of the British dominions.

2. I cannot answer this question, as I am quite ignorant of the practice in both Courts.

3. I believe it imperative that a tribunal should be invested with the fullest powers to decide all questions between captains or owners of vessels and merchants, especially for demurrage, freight, and detention of ships; as there is scarcely a captain unloading at any seaport in Ireland, and more particularly in Dublin, who, on account of the present defective state of the law, and the long intervals between the closing and the opening of Law Courts, is not obliged to leave this country sadly mulcted and deprived with impunity of his legal claims, in violation of conditions laid down in his charter party and bill of lading.

4. I would suggest that in all cases of desertion or any other criminal offence, or misdemeanour committed on board vessels, or against the captains and officers on board said vessels, the consul or captain, instead of lodging information before a police magistrate, as it is the case now, should apply to the Court of Admiralty, by which warrants should be granted for the apprehension of said sailors; and I would also suggest that the power of such warrants should not be interfered with by other Courts, when said warrants are granted and executed in force of existing treaties between England and the nation represented in Ireland by the Consul applying for said warrant.

5. According to my opinion, confirmed by whatever experience I have acquired during my short tenure of office, I do believe that whenever it is a question of small sums, say of £10 or £20, no captain refuses an arrangement, preferring to lose £5 or £10, rather than to incur costs and loss of time in bringing the case before a tribunal.

Disputes arise generally when the sum contested by the merchant is from £40 to £300 or £400; sometimes more.

6. I cannot give any opinion how the jurisdiction of the Court for decision of such questions could be best exercised at Cork, Belfast, Waterford and other seaports distant from Dublin, as I am quite ignorant, first, of the capability and fitness of local Magistrates outside Dublin, and secondly, of the consular jurisdiction of the other foreign nations; but as far as Italy is concerned, the consular jurisdiction being concentrated in Dublin, and the Consular Delegates for the Kingdom of Italy in Ireland having no power to interfere, except officiously, in questions of dispute between captains and merchants, I am of opinion that, for the purpose of enabling consuls to give all their assistance and time to those captains who know nothing of English, the hearing and decision of such cases should take place in Dublin, where the best bar can be secured and a most respectable jury can be empanelled.

7. I would suggest that a cheap scale of fees and costs be fixed by the High Court of Admiralty; and that in consequence of foreign vessels entering the Irish seaports in greater numbers in the months of July, August, September, and October, the High Court of Admiralty should sit daily during the whole year, and the Judge or his Delegates should at all times be ready to hear any case that might be brought before him or them.

The simplification of procedure as suggested would, I am sure, establish the confidence of foreign trading nations, and therefore materially increase and develop the commerce of Ireland.

(Signed),

A. C. MARANI,

*Consul for the Kingdom of Italy
in Ireland.*

Joseph
Boyce,
Esq., D.L.,
Vice-
Consul for
Russia.

12.—III. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. JOSEPH BOYCE, Esq., D.L., Vice-Consul for Russia.

1. That such an assimilation is highly desirable, as tending to simplify all proceedings.

2. No; but if there be in the Irish Court any peculiar practice of a beneficial nature, that is not in that of England, such should be introduced into the latter.

3. There can be no objection to this, if it be also done in the English Court. Such questions involve the consideration of technicalities, which a Court specially given to the examination of them might better decide on.

4. If the warrant of the English Court can be executed in an Irish port, the warrant of the Irish Court ought to be capable of being executed in an English port. Perhaps the fairest way would be, to let either warrant answer for either Court. The Court to be afterwards fixed according to the locality of the alleged wrong being nearer to or farther from the shore of either country, within the nautical limits of the coasting trade.

5. The Merchant Shipping Act seems to provide for

all such matters; but it might be expedient for magistrates to call in as assessors Royal Navy officers, or suitable masters of the mercantile marine.

6. The local jurisdiction of magistrates, as provided by Merchant Shipping Act, appears sufficient, especially if they be aided by assessors, as suggested in No. 5. And as the assimilation of the Irish to the English Court would throw open the business to legal practitioners in general, the mode of appeal to the Court in Dublin might be same as in England.

7. Authorized assessors, named by the proper authorities, should be those who should sit with and counsel the Judge; and these should represent the Royal Navy, the Commercial Sailing Ship interests, and the Commercial Steam interests—being three in all.

(Signed),

JOSEPH BOYCE,

Russian Vice-Consul.

Richard
Welch,
Esq.,
Vice-
Consul for
Austria.

12.—IV. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. RICHARD WELCH, Esq., Vice-Consul for Austria.

3. I can see no advantage in this, unless the Court be sitting continuously, so as to hear cases whenever they may occur; and I fear the expenses of the Admiralty Court under existing circumstances would prevent many foreigners from proceeding through it; and it appears to me most objectionable, that in a case of ex-

orbitant demand the whole of the costs are thrown on the defendant, although he be condemned in a mere fractional amount of the sum demanded.

5. I am of opinion that the shortest and most summary method of proceeding in these cases should be adopted; and I am not aware that either of these, or

Joseph
Boyce,
Esq., D.L.,
Vice-
Consul for
Russia.

Richard
Welch,
Esq.,
Vice-
Consul for
Austria.

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Answers of Consuls of Foreign States.

the cheap administration of the law, can be had from the Admiralty Court, as at present constituted.

6. Commissioners might be appointed at the out-ports, whose decision should be always subject to the approval of the Court of Admiralty or other tribunal appointed in Dublin for the trial of such questions.

7. It is of paramount importance to foreign shipmasters that there should be some tribunal at all times avail-

able for the settlement of questions of freight and demurrage, as detention of vessels is attended with very great expense; and it is also desirable, that evidence taken in writing from captains, &c., should be made equivalent to *viva voce* examinations, thus doing away with the necessity for remaining in, or returning to the port where the case was to be tried.

(Signed,)

RICHARD WELCH.

JURISDICTION, PRACTICE, AND PROCEDURE.
Answers of Consuls of Foreign States.

Richard Martin, esq., Consul for Prussia.

12.—V. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. RICHARD MARTIN, Esq., Consul for Prussia.

Richard Martin, esq., Consul for Prussia.

1. I think it desirable that the procedure and practice in England and Ireland should be assimilated.
2. This is a question to be answered by legal gentlemen.
- 3 and 4. I think it most desirable that questions of demurrage, freight, and all other questions specially relating to ships, should be decided in the Admiralty Court.
- 5 and 6. It would be a great public benefit if all disputes of small amount in relation to ships (particularly at the outports) should be decided at once by some

local tribunal, with an appeal to the Superior Court at Dublin. The magistrates have jurisdiction in certain cases of wages and salvage, which might be extended to many other questions, such as small repairs, provisions, trifling collisions, injuries, &c.

7. This is a question for legal gentlemen, but any improvements to hasten and cheapen the decision of maritime questions will tend to develop the foreign and home trade of Ireland.

(Signed,)

RICHARD MARTIN.

Charles Palgrave, esq., Consul for Belgium.

12.—VI. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. CHARLES PALGRAVE, Esq., Consul for Belgium.

Charles Palgrave, esq., Consul for Belgium.

1. I consider it highly desirable, that the practice of the High Court of Admiralty in Ireland should be assimilated to that of England, as far as practicable.
2. I cannot say, but am aware that the practice in the Irish Court affords great facilities in getting ships released on bail.
3. The question of demurrage, freight, &c., should be extended to the Irish Court of Admiralty; for in this Court, sitting all the year, such questions might be expeditiously and cheaply determined.
4. The right of trial by jury might be given to parties if required; and the Admiralty Court should have power to entertain claims of ship-owners against foreign ships for brokerage, port charges, commission, &c.
5. In small cases, I think a simple summons, stating the claim or matter in dispute, might issue, the parties summoned required to appear, to give in his defence at same time, and the matter then summarily heard and decided.
6. I do not think it desirable to establish local tribunals, especially as regards foreign ships, the masters of which would prefer proceeding in the Court itself.
7. I think the present mode of keeping suitors' funds,

with Court poundage and Marshal's per centage, should be either abolished or greatly reduced; also that the officers of the Court should be paid by salaries, and not by fees.

(Signed,)

CHARLES PALGRAVE,
Consul for Belgium.

I concur in the foregoing replies of Mr. Palgrave.

(Signed,)

MICH. MURPHY,
Vice-Consul for Oldenburg.

I entirely coincide in the foregoing observations and suggestions of Messrs. Palgrave and Co., the highly respectable and extensive ship-owners and ship-agents of Dublin.

Given at United States Consulate, Dublin, this 11th February, 1864.

(Signed,)

WILLIAM B. WEST,
U.S. Consul at Galway, and Acting-
Consul for Dublin.

I concur in the foregoing replies of Mr. Palgrave.

(Signed,)

HENRY C. HOYTE,
Consul for Hanover.

Thos. Snow, esq., Vice-Consul for Brazil, Mexico, &c.

12.—VII. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. THOS. SNOW, Esq., Vice-Consul for Brazil, Mexico, &c.

Thos. Snow, esq., Vice-Consul for Brazil, Mexico, &c.

1. It would be very desirable that the law should be the same in both countries.
2. I cannot undertake to answer this question.
3. I think it would be a great advantage to have a Court for this purpose, and I consider that the Police Magistrates could decide those questions sooner and at less expense than any other tribunal.
4. I am not aware of any.
5. See answer to No. 3.
6. The Bench of Magistrates, assisted by the Stipendiary Magistrates.

I cannot say in what manner a prompt appeal could be best secured, unless a Judge be appointed for that purpose.

7. All charter-parties and bills of lading should be signed and sealed by the British Consul at the port the ship sails from, and such signature and seal should be sufficient legal proof of the legality of such charter-parties and bills of lading without any further proof than the declaration of the captain or mate of the vessels that he witnessed said signing and sealing.

(Signed,)

THOMAS SNOW,
Vice-Consul for Brazil, Mexico, and New
Granada; Consul for Liberia.

6th February, 1864.

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AND PRO-
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of Consuls
of Foreign
States.

James
Martin,
esq., Con-
sul for
Denmark.

12.—VIII. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. JAMES MARTIN, Esq.,
Consul for Denmark.

1. I think it desirable that the procedure and practice in England and Ireland should be assimilated.

2. This is a question to be answered by legal gentlemen.

3. I think it most desirable that questions of demurrage, freight, and all other questions specially relating to ships, should be decided in the Admiralty Court.

5 and 6. It would be a great public benefit if all disputes of small amount in relation to ships (particularly at outports) should be decided at once by some local tribunal, with an appeal to the Superior Court at Dublin.

The magistrates have jurisdiction in certain cases of wages and salvage, which might be extended to many other questions, such as small repairs, provisions, trifling collisions, injuries, &c., &c.

7. This is a question for legal gentlemen, but any improvements to cheapen and hasten the decision of maritime questions will tend to develop the foreign and home trade of Ireland.

(Signed), JAMES MARTIN.

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AND PRO-
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of Consuls
of Foreign
States.

James
Martin,
esq., Con-
sul for
Denmark.

Chas.
Haliday,
esq., J.P.,
Consul for
Greece.

12.—IX. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. CHAS. HALIDAY,
Esq., J.P., Consul for Greece.

1. That, subject to such improvements as are requisite in the constitution and jurisdiction of the Court, it is highly desirable to assimilate the Law and practice in the two countries.

2. That the Court should have no vacation, and that two Judges should be appointed for the purpose of relieving each other.

3. That it is highly desirable that the jurisdiction of the Court of Admiralty should be extended to questions of demurrage, freight, detention, damage to cargo, &c.

5. That evidence should be *viva voce*, where practicable, and that "summons and plaint," as in Superior Courts, should bring the cause to trial within the fewest

possible number of days, so as to prevent the detention of foreign ships, &c.

6. The complaint is, delay in bringing disputes to trial; which might be obviated by bringing the case before the Court in Dublin, which should have no vacation. The Recorder of Cork does not always sit, and there are no Recorders in Belfast or Limerick.

The Court should be empowered to summon juries; and from their decision, flated by the Judge, there should be no appeal.

(Signed), CHARLES HALIDAY,
Consul for Greece, Dublin.

Chas.
Haliday,
esq., J.P.,
Consul for
Greece.

Nelson
Arnold,
esq., Con-
sul for
Hayti.

12.—X. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. NELSON ARNOLD, Esq.,
Consul for Hayti.

Haitien Consulate, Dublin, 8th February, 1864.

SIR,—As requested in your favour, 27th ult., I have the honour to return the queries, answered as far as I can do so.

I conceive the movement for amending the laws of the Admiralty Court highly important; and feel convinced that under so very able and distinguished a Commission such will result in all that can be desired, and thus conduce to the *facilities* of a Court of such importance to this country; and which has always been conducted with so much ability and efficiency.

I am, sir,

Your obedient servant,

NELSON ARNOLD.

W. Neilson Hancock, Esq.,
Four Courts.

1. The necessity of assimilating as far as possible the practice, &c., of the Court of Admiralty in Ireland to that of England, judging by the able document of Dr. Townsend, is not only desirable, but absolutely essential.

2. Not having given the subject attention before receipt of your favour 27th ult., there may be legal points on which I would not be justified in expressing an opinion; but viewed in the abstract I can see no reason why the same powers, &c., of the Court in England should not be extended to that of Ireland.

3. I am of opinion that it would be desirable to extend the jurisdiction of the Court of Admiralty to questions of freight, demurrage, &c., and other disputes between captains and owners of vessels and merchants; because I conceive such cases come more directly

within the province of a Court of Admiralty; provided that the enactments would secure prompt and inexpensive decisions.

4. As the matter has not hitherto had my attention, I would not be justified in expressing an opinion. At present I am not aware of any.

5. The appointment of a Master in the Court of Admiralty in Dublin, who could adjudicate on small amounts say, up to £200 (proceeding by direct summons), to call in a nautical or other assessor, if necessary. The expense and delay of adjustment consequent on the existing laws frequently, I understand, debar parties having small claims going into Court at all.

In questions of a trifling nature, such as damages arising from vessels in harbours fouling, &c., &c., simplification might be easily made by giving powers to the *Harbour Masters* of the principal ports, say Dublin, Kingstown, &c., to adjudicate by arbitration or otherwise, say on amounts not exceeding £30, or they might be made justices with suitable powers to give local and summary redress. Foreigners and others would, I feel convinced, consider this a prompt and satisfactory way of deciding cases where time is to them of vital moment.

6. The appointment of an Admiralty Deputy, say a barrister of legal experience and ability, to be, if necessary, assisted by a mercantile or nautical assessor.

Or, as cases to be adjudicated on in provincial towns would likely be of small amount (large causes would naturally be brought to Dublin), the Court of Petty Sessions might afford a prompt medium of deciding amounts up to £100. But in all such cases I consider it should be stipulated that Justices should have the assistance of a competent nautical or mercantile assessor.

7. I have not any suggestions to offer.

P. F.
M'Mahon,
esq., Vice-
Consul for
Honduras.

12.—XI. ANSWERS to QUESTIONS addressed to CONSULS of FOREIGN STATES. P. F. M'MAHON, Esq.,
Vice-Consul for Honduras.

1. I consider the practice and procedure of the Admiralty Court in England (generally) far preferable to the practice of such Court in Ireland.

2. I am of opinion that the law as at present administered in Ireland, is preferable to that in England, with

regard to making all ships liable for repairs, supplying them with necessaries, &c., in any port; otherwise I believe it would be most inconvenient, as captains, &c., might find great difficulty in getting such repairs done on the personal credit of the owners, &c.

P. F.
M'Mahon,
esq., Vice-
Consul for
Honduras.

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M'Mahon,
esq., Vice-
Consul for
Honduras.

3. I think questions of demurrage, freights, seamen's wages, culpable damage to cargo, &c., where the amount in dispute does not exceed £100, should be decided in a minor Court, presided over by a Judge sitting one or two days in every week. Suitors to be at liberty to conduct their own cases if they wished; if not, to be at liberty to have the assistance of any barrister or solicitor. I would also suggest that the Judge of such Court should have the assistance of one or two members of the Ballast Board when mercantile questions would arise, but when the sum in dispute exceed £100, then the High Court of Admiralty, as at present presided over by our efficient Judge Kelly, I consider would be the proper Court, the law being assimilated as near as possible to that in England.

7. I think in such seaports as Cork, Belfast, or Waterford an efficient Judge, experienced in maritime law, should be appointed, who would have power to decide all questions in dispute; an appeal to the High Court of Admiralty in Dublin to be final. I consider the present

slow and expensive procedure of the High Court of Admiralty in Dublin most injurious to the foreign trade and commerce in Ireland; as the difficulty captains and owners of ships find in getting just claims promptly settled deters them in future coming to Irish ports. And I would respectfully suggest that all cases of dispute between captains or owners of vessels and merchants should be decided promptly, and with as little expense as possible to suitors; as I believe foreigners are often treated badly by consignees, who make deductions from their freight for damage, &c., to cargo, which generally occurs from heating, and not neglect on the part of captains or owners of ships. Captains, &c., prefer to make a compromise sooner than take proceedings in the slow and expensive method at present in force in Ireland.

(Signed),

P. F. M'MAHON,

*Vice-Consul for Honduras.*21, Lr. Dominick-street,
Dublin.JURIS-
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AND PRO-
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of Foreign
States.P. F.
M'Mahon,
esq., Vice-
Consul for
Honduras.William
Scott, esq.,
Vice-
Consul for
Sweden
and
Norway.

12.—XII. ANSWERS TO QUESTIONS addressed to CONSULS of FOREIGN STATES. WILLIAM SCOTT, Esq., Vice-Consul for Sweden and Norway.

1. I am of opinion that the assimilating of the practice of the Irish Court as far as practicable to that of the English Court would prove advantageous.

2. I am not acquainted with any parts of the practice to apply to this query.

3. The extension of the jurisdiction of the Court to such questions would, in my opinion, prove of great advantage to the interests concerned, the want of a tribunal to which prompt application could be made, and the question of freight and demurrage in dispute disposed of at reasonable expense and with despatch, is a matter of frequent complaint by ship masters, especially foreigners, the present mode of proceeding in the Superior Courts of Law, entailing great expense and delay, often deter masters from prosecuting a claim for what they consider their just rights; and, above all, the necessity which obliges them to return to this country to attend a trial. With the Court of Admiralty available at a reasonable expense and short notice of trial, I consider that the shipping interests would be materially benefited, while the merchant would derive equal advantage in prosecuting any claim he may have for injury or neglect by the ship. I have known a case of a foreigner proceeding in the Superior Courts for some £70, having to return here after some months, getting

a verdict, and having to pay £30 costs between attorney and client.

4. I know of none.

5. In the absence of a Tribunal of Commerce, which works so well in all Continental seaports, more particularly for the adjustment of small claims between the master and the merchant, I would suggest that the Court of Admiralty should be available for the recovery of sums not exceeding £20, upon a three days' summons, or such short notice as may be practicable. In such cases it is to be viewed, that the delay given to a ship waiting settlement of freight and demurrage is important. I will instance a claim of £10 by a foreigner who is under an expense of £6 per day in keeping crew, &c.; rather than incur delay he will abandon his right, and leave us with an unfavourable impression of our laws. That this is a matter worthy of consideration, I respectfully submit.

6. Dublin, I consider the best venue; I do not think that decisions of such questions would be satisfactorily arrived at by local jurisdiction.

Nothing to add to the above.

(Signed),

WM. SCOTT,

*Swedish and Norwegian Vice-Consul.*William
Scott, esq.,
Vice-
Consul for
Sweden
and
Norway.

APPENDIX B.—EXTRACTS FROM REPORT ON HIGH COURT OF ADMIRALTY OF IRELAND IN 1829, BY COMMISSIONERS ON COURTS OF JUSTICE.

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1. EXTRACTS FROM REPORT of 1829.—JURISDICTION, PRACTICE, and PROCEDURE.

"The High Courts of Admiralty of England and of Ireland are distinct, independent, concurrent, and coextensive jurisdictions. All marine contracts entered into, or trespasses committed on the high seas, or at any foreign port, are equally cognizable by either jurisdiction. The presence of the vessel, or of the person (the object of suit) in an English or an Irish port, determines the claim of consuance of the respective Courts. The High Court of Admiralty of Ireland, though it cannot lay claim to equal antiquity with that of England, is unquestionably of very remote origin; and, though distinct and independent, it has uniformly observed the same rules and principles in its adjudications, and has been mainly go-

verned by the reported decisions of eminent Judges who have presided in the English Court. And the Irish Parliament, in any legislative regulations which were enacted for the alteration or improvement of this jurisdiction, observed a principle of assimilation, by adopting those provisions which had previously been enacted by the Parliament of England. For instance, the English statute, 27 Hen. VIII., c. 4, having enacted that all piracies and murders done upon the seas, or in any haven, river, or creek, where the Admiral or Admirals have, or pretend to have, jurisdiction, should be inquired, tried, heard, and determined in such shires and places as should be limited by the King's Commission, directed to the

EXTRACTS
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and Proce-
dure.

EXTRACTS
FROM REPORT OF
1829.

Jurisdiction,
Practice,
and Procedure.

Admiral, his lieutenant or deputy, and to three or four other persons in like form and condition, as if such offences had been done on the land; such offences to be heard and determined according to the course of the laws of the land used for felonies done and committed within the realm. The provisions of this statute were adopted, in precisely the same words, by the Irish statute 11, 12, 13 Jac. I., c. 2, which statute was amended by statute 23 and 24 Geo. III., c. 14 (Irish), enacting that the Commission for trying offences should be directed to the Judge of the High Court of Admiralty in Ireland, and to three others, any two of such Commissioners to form a competent tribunal for trial of those offences. Again, by the English statute, 8 Eliz., c. 5, it was declared that, for the avoiding of long and tedious suits, and also of great charges and expences in prosecuting civil and marine causes, and to the intent that, as well strangers, as others of the subjects of the realm that should have causes of suit in those matters, might have such expedition in the same as their nature and qualities require, all and every such judgment and sentence definitive as should be given or pronounced, in any civil and marine cause, upon appeal lawfully made to the Queen in Her Court of Chancery, by Commissioners or Delegates, to be nominated and appointed by Her Majesty, should be final, and no further appeal should be had from such Delegates.

"The appellant jurisdiction thus declared by the English Parliament was adopted in that of Ireland, though not in the same words, by Statute 23 and 24 Geo. III., c. 14, already referred to, by which it was enacted that any person aggrieved by any sentence, order, or adjudication of the High Court of Admiralty of Ireland, might appeal to the King or Lord Lieutenant, in the High Court of Chancery of Ireland; and that, upon every such appeal, the Chancellor should grant a Commission of Delegacy to some discreet and well learned persons, under the Great Seal of Ireland, which Commissioners or Delegates should have full power and authority to hear, and finally determine, all causes and grievances contained in such appeals.

"Thus the High Court of Admiralty of Ireland, either by ancient usage, or by the adoption by the Parliament of Ireland of the same legislative enactments, possessed similar inherent powers, or underwent similar modifications of jurisdiction with that of England, to the period when the two kingdoms became legislatively united in the 40th year of His late Majesty. The jurisdiction in prize cases has never (we believe) been extended to the Court of Admiralty of Ireland. Claims have been set up, and attempts made, with a view of assuming the cognizance of prize causes; but no legitimate exercise of such a jurisdiction as possessed by the Irish Court of Admiralty can be satisfactorily shown.

"By the 8th article of the Act of Union between Great Britain and Ireland, it is expressly enacted, that from and after the Union there shall remain in Ireland an Instance Court of Admiralty, for the determination of causes civil and maritime only; and that the appeal from the sentences of the said Court shall be to his Majesty's Delegates in his Court of Chancery in that part of the United Kingdom. This Act having thus established the High Court of Admiralty in Ireland as an Instance Court only, with an appeal from its decisions to a Court of Delegates, we shall proceed to state briefly the nature of its proceedings, and the description of cases which, in the exercise of its jurisdiction, become the subjects of its adjudication.

"The subjects of suit in the Court of Admiralty are twofold—first, the King's droits of Admiralty; secondly, the demands as well of the King's subjects as of foreign merchants, &c., founded on contracts, express or implied, relating to marine concerns either on sea, in foreign ports, or within the United Kingdom.

"The King's droits of Admiralty for which suits may be instituted consist of derelicts, being vessels forsaken and found at sea without any person on

board, goods found floating in the sea below high-water mark, deodands, &c.

"The cases in which causes at the suit of foreigners or the King's subjects are entertained in the Court of Admiralty arise on hypothecations of vessels or cargoes, for mariners' wages, for material men, collision of vessels, trespasses committed at sea, or in havens, ports or creeks, questions of possession, or for security between joint owners and what are termed petitory causes.

"Suits on each and every of the subjects above enumerated may and have occasionally been instituted in the Irish Court of Admiralty; but the Court is principally occupied with business arising out of causes at suit of the King and of salvors, on seizures of derelict ships and cargoes as droits of Admiralty, and in suits for the recovery of mariners' wages.

"For the superintendence and management of the business of the Court of Admiralty in Ireland there are only three officers—viz., the Judge, the Registrar, and the Marshal. The duties of these officers require their services and attendance in all causes of whatever description.

"With a view of rendering this report more intelligible, we deem it necessary to state, as concisely as the nature of the subject will admit, a general outline of the proceedings in a droit cause, and also in a suit for seamen's wages, as they are conducted according to the modern practice of the Court. When the King's proctor has received information of any derelict property having been brought on shore, he generally applies to the Court, on affidavit of the circumstances, and obtains a fiat; on the authority of which the Registrar issues a warrant, directed to the Marshal of the Court, for its arrest and detention. This process (a copy of which is affixed to the mast, if the derelict be a ship) contains a citation requiring 'all persons in general, who have, or pretend to have, any right, title, or interest' in the ship or goods thus seized, to appear on a given day in support of their respective claims and interests. The parties availing themselves of this notification are generally such persons as have volunteered their services in bringing the derelict into port (who are entitled to a certain remuneration out of the proceeds of the sale of the property), and the owners of the derelict; the latter of whom are not divested of their property by the seizure on the part of the Crown for the droits of the Admiralty, till a year and a day have elapsed from the day of seizure without claim on their part. On the return of the warrant, pleadings, termed libels, are filed by the King's proctor, the proctors of the salvors, and of the owners (should they come forward), stating their respective claims. The suits by the two latter are termed interventional.

"In causes of this description a commission for the examination of witnesses issues, directed to the Registrar, and the subjects of such examination are contained in the allegations of the pleadings. Pending this examination, an order is in general pronounced that a commission for the appraisement and sale of the derelict do issue. This, like the warrant, is generally addressed to the Marshal, in whose custody and possession the derelict has remained from the time of seizure. By virtue of this commission the Marshal appoints appraisers for valuation of the property and an auctioneer for the sale of it. The several fees of the Marshal accruing to him on the services he performs in relation to the seizure, custody, preservation, appraisement, and sale of the derelict property, together with the sums disbursed by him (which in some cases are considerable), being deducted out of the proceeds of the sale, he brings in the balance to the Registrar of the Court, and at the same time hands him his bill of fees and disbursements, together with his vouchers, to justify the sum retained by him. The proceeds thus deposited with the Registrar of the Court are intrusted to his special care and keeping, and for the custody and paying over the same to the parties and their respective proctors he is allowed to deduct a per-centage. On the return of the commis-

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sion for the examination of witnesses and publication of the depositions, the cause is brought to a hearing, and by the final decree a certain proportion of the fund in the hands of the Registrar, after deducting his poundage, is decreed to the salvors, and the remaining part to the owners, generally subject to the costs of the Crown and salvors. These several costs are taxed by the Registrar, allowed by the Judge, and then discharged by the Registrar out of the fund in his hands. Should no owner come forward to claim the derelict, it is decreed a droit of Admiralty; and the proceeds, after deducting the salvage, costs, and poundage, are paid by the Registrar to the King's proctor. However, it scarcely ever happens that an owner does not appear and establish his claim to the balance of the proceeds.

"Before discussing the subject of suits for the recovery of the King's droits of Admiralty, it may be proper to remove a very prevalent misconception, that the statutes made in Ireland on the subject of salvage have created a jurisdiction in magistrates in droit cases concurrent with that of the Court of Admiralty. This notion we apprehend to be altogether devoid of foundation, and to have arisen from a very careless and superficial view of the subject. The first statute on this subject, and on which a number of other Acts and clauses of Acts are superstructured, is the 4th Geo. I. c. 4, which enacts that the sheriffs and justices of peace of every county, or county of a city or town, and also all mayors, bailiffs, and other head officers of corporations and port towns near adjoining to the sea, and all constables, headboroughs, tithing-men, and officers of the customs, in all and every such places, upon application made to them, or any of them, by or on behalf of any commander, chief officers, owners, or freighters of any ship or vessel of any of his Majesty's subjects, or others being in danger of being stranded or run on shore, or being stranded or run on shore, are thereby empowered and required to command the constables of the several places nearest the sea-coasts where any such vessel shall be in danger as aforesaid, to summon and call together as many men as shall be thought necessary to the assistance and for the preservation of such ship or vessel so in distress as aforesaid, and their cargoes. The Act then provides, that all persons who shall act, or be employed in the preserving such ship or vessel in distress, or the cargoes, shall, within thirty days after such service performed, be paid a reasonable reward for the same by the commander, master, or other superior officer, mariners, or owners of such ship, vessel, or goods so saved as aforesaid; and, in default thereof, such ship, vessel, or goods shall remain in the custody of such officer of the customs or his deputy until such time as all charges shall be paid. The Act then provides, that if the commander or owner shall disagree with the officer of the customs touching the moneys deserved by any of the persons so employed, it shall be lawful to refer the adjustment of the remuneration to two or more neighbouring magistrates, such adjustment to be binding on all parties. From the provisions of the Act thus stated it is clear that the case which the Legislature has there contemplated is altogether distinct from the case of a derelict or droit of Admiralty, and that the statute gives no jurisdiction on the same subject-matter on which the Court of Admiralty has a right to adjudicate. The latter is a case of entire abandonment by the master and mariners; the former a case of distress, where the master and mariners are on board and in full possession of the ship and cargo, and only stand in need of assistance to rescue the vessel from shipwreck. Mr. Foster, the King's advocate, has described these derelicts and the proceedings in the Court of Admiralty on the part of the Crown, the salvors, and owners. He states that they are generally vessels employed in the American timber trade; that they often become water-logged and wholly unmanageable through the effects of bad weather, and are deserted by their crews, but the buoyancy of their cargo prevents their sinking. Vessels so circum-

stances have been sometimes (but improperly) termed wreck at sea. It has never been doubted that such are distinctly perquisites of the Admiralty, and that suits concerning them belong exclusively to the Admiralty jurisdiction.

"Suits for wages are commenced in nearly the same manner as those we have already described. A warrant is extracted by the seaman's proctor, which in a suit of this description never issues, unless the mariner has previously sworn an affidavit, stating his cause of action, and that the wages, as demanded, are fairly and justly due to him; but upon filing such affidavit it issues as a matter of course, without fiat of the Judge. The warrant is directed to the Marshal, and he is therein required to arrest, or cause to be arrested, the vessel sought to be affected by the seaman's demand; and also to 'cite at the premises' the master or owner, to appear on a given day to defend the suit. All, or any number of the seamen composing the crew of a vessel, may join in a suit, although the sums demanded by them respectively be different; or one may sue, and another intervene, by which means separate suits may be carried on simultaneously. It often happens, in causes of this description, that an interventional suit is instituted by persons termed material men, having executed repairs, or furnished materials for the ship. The owners of the vessel having entered an appearance, or bailed the vessel, libels are filed on the part of the promovents and intervenients. The impugnant then makes his defence, which is done, either by a negative contest, which amounts to general denial, or by a special defensive matter, alleging some cause disentitling the promovent to relief. In case an appearance for the impugnant is not entered, upon the return of the warrant, certain rules are entered termed defaults, the fourth of which is taken by the Court as a negative contest, and the promovent obtains liberty to file a libel, and prove his case, as if an appearance had been entered; and so the cause proceeds to a hearing *ex parte*.

"Suits for seamen's wages are carried on *summariissime*; by which term is meant a much more prompt and expeditious procedure than in ordinary cases, wherein the proceedings are said to be summary merely. The greater expedition in a seaman's suit arises from the examination of witnesses being generally conducted *viva voce* in open court; this, however, is not invariably the case, as even in seamen's suits, commissions for examination of witnesses sometimes issue; but in general the examination of witnesses takes place in open court, in presence of the Judge, and the depositions are taken down in writing by the Registrar. In these suits the mariners, whether suing conjointly or not, are admitted mutually as witnesses to prove each other's demands; and in practice there is this peculiarity attending them, that their proctors are not required to advance any of the official fees; consequently, should the suit prove unsuccessful, the Judge and the other officers are under the necessity of remitting their fees altogether, with the exception of the Marshal, who claims a lien for his fees and disbursements against the impugnant vessel. When the defendant obtains a decree of dismissal, a release issues, directed to the Marshal, who, on receipt of it, discharges the property under detention; should, however, the promovent's case be established in proof, a decree is pronounced for payment of the wages proved due, or on default of payment, that a commission do issue for the appraisal and sale of the vessel under arrest; and the remaining proceedings are similar to those already detailed in suits respecting derelicts. It rarely happens, however, that suits for seamen's wages are carried to the full length of a sale of the arrested property. The ship-owner, or master of the vessel, in most cases, comes to a settlement at an early stage of the proceedings, or at latest after the decree. These outlines of proceedings in the Court of Admiralty will, we trust, render intelligible the details of practice in the following Report."

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2.—EXTRACTS FROM REPORT OF 1829—OFFICE OF JUDGE.

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"The right of appointment to the office of Judge of the Admiralty in Ireland, has been exercised by the Crown since the transfer of the office of Lord High Admiral to the Lords Commissioners of the Admiralty. By statute 23 & 24 Geo. III., c. 14, it was enacted that His Majesty, his heirs and successors should and might from time to time nominate, constitute and appoint one fit and discreet person to be Judge of the High Court of Admiralty, to have and to hold the said office so long as he should behave himself well therein; and that the person so to be nominated and appointed should have full power and authority to hear and determine all, and all manner of civil, maritime and other causes to the jurisdiction of the said Court belonging, or which of right belong thereto, according to the laws and statutes of the realm: provided that it should be lawful to and for His Majesty, his heirs and successors to remove such Judge upon the address of both Houses of Parliament.

"The right of the Crown to confer on the Judge of this Court a power of delegating his authority to a deputy may be much questioned. The statute gives the Crown no such right, either by express words or necessary implication. The patent, by empowering the grantee thus to delegate his official duties, has virtually transferred to him the right of appointment; the practical evil resulting from it is, that the acting Judge is performing the duties almost without remuneration, whilst the appointee of the Crown has been for more than eighteen years enjoying a sinecure salary.

"The emoluments of the office of Judge of the Admiralty consist principally of salary, and partly of fees of very trifling annual amount. The salary previously to the appointment of the present Judge was £500 a year, but in the year 1807 it was augmented to £1,000 per annum. The salary in the event of retirement or superannuation is £400 per annum.

"The fees of the Judge, on an average of three years ending 31st December, 1814, during which Doctor Mahaffy presided, amounted to £12 13s. 4d. per annum. By the return of Sir Henry Meredyth, it appears their average amount for a like period, ending 31st December, 1827, was £41 19s. 4d. late currency. These fees were allotted to the respective surrogates, and constituted their only remuneration for discharging the entire judicial functions; they are received by the Registrar as they occur, with the exception of the fee on taxation of costs, and are paid over to the surrogate in a bulk sum yearly.

"The duties, as enumerated in Sir Henry Meredyth's return, are 'to take cognizance of all and every cause and causes of any nature whatever, whether of office, or promoted at the instance of any party or parties, or by law or custom belonging to the Court of Admiralty, or to the jurisdiction thereof; and to hear, discuss and determine, and give judgment in the same.' The general duties of the Judge are co-extensive with the jurisdiction of the Court; the subjects of which, as described in detail in the patent, are extremely multifarious, and will be best understood by a reference to that document. But there are particular branches of duty which, under the modern practice of the Court, it becomes important that we should notice: one of these is the examination of all bills of costs between party and party. The duty of taxation originally belonged exclusively to the Judge; but modern practice has divided it. The Registrar under an order of reference, actual or constructive, first examines and reports on the bills, and the Judge afterwards confirms his taxation, if unobjected to; but upon objections being made, he investigates the items, and if he finds the allowances or disallowances made by the Registrar too large, it is his duty to moderate them; but if he approves of the taxation, he sanctions it by the word "allowed," with his signature subscribed. The Marshal's bill of fees and disburse-

ments ought also to be submitted to him, and similarly moderated or allowed.

"Another duty of the Judge is the examination of witnesses *in scriptis*; but in modern practice this duty is delegated to the Registrar, and the Judge only administers the oath to the witness, who, after examination, is attended by the Registrar to the Judge, to be what is termed "repeated;" as will be more fully explained when treating of this subject as a branch of the duty of the Registrar.

"Another duty of the Judge which it is necessary here to notice, is the pronouncing of decrees and orders for the payment of sums of money out of the registry. This duty consists in an examination, in open Court, into the claim of the party applying for payment; and when satisfied of its propriety, in pronouncing an order or decree that the Registrar shall pay over the amount, as ascertained to be due to such applicant.

"The Judge also appoints the day for the sitting and adjourning of the Court, and the hours of sitting, which Sir Henry Meredyth states, have been varied to meet the convenience of the public and the profession, and with a view to the despatch of business. The sitting of the Court commences sometimes at one, sometimes at two, and sometimes at three o'clock; but more generally at two o'clock. Before the appointment of Sir Henry Meredyth the hour of rising was in general about half-past three, but Sir Henry has sat much later. The expense to the suitors is much increased by frequent adjournments; this would be avoided by the Court's holding its sittings for the same number of hours during which other Courts are in the habit of transacting business; and we recommend that the hours of sittings in each day be so regulated in future. There are three regular court-days in each week during its sittings, besides by-days, which are days appointed by the Court for transacting any particular business which may happen to be peremptory.

"Among the many evils attendant upon the delegation of the judicial functions to a deputy, without remuneration for his time and trouble, that of the late and uncertain hours of sitting, and the adjournments of causes from day to day, which might be determined by more protracted sittings in a much shorter period, stand prominent. We believe the present surrogate has endeavoured to devote, to the discharge of business and the general advantage of the public, as much time as his many professional avocations would allow; but it cannot be expected that a gentleman who has extensive practice as an advocate in the Ecclesiastical Courts, in addition to the common law and equity business in which he is daily engaged, could devote sufficient time and attention to the business of an office, which, instead of producing profit, must necessarily detract considerably from the emoluments arising from an uninterrupted attendance on his professional practice. This evil, in our opinion, can never be removed, until it shall be made compulsory on the Judge to discharge his duties in person, and until his remuneration shall offer a sufficient inducement to a talented and experienced advocate to devote his entire time to the duties of his office. We therefore beg leave to recommend that in future the person holding the situation of Judge of the Admiralty, shall be required to relinquish professional practice, and that the power of deputation be limited to cases of the temporary indisposition of the Judge, or his necessary and unavoidable absence on business, under the permission of the Lord Chancellor, previously obtained upon a representation in writing of the necessity for the Judge's absence; in which case a part of the salary of the Judge shall be allocated to the deputy, proportioned to the period during which such deputy shall have continued to perform the judicial duties."

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3.—EXTRACTS FROM REPORT OF 1829—OFFICE OF REGISTRAR.

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"The duties of this Officer, as stated in a return made to the Board, are as follow: 'To attend Court-days three in the week, and by-days often the other three days in the week, particularly in term time; and to be constantly in the way to sign warrants to arrest, and releases to liberate vessels detained.' The Registrar is also the officer to whom is intrusted the custody of all moneys produced by sales of vessels, cargoes, or property under commissions of appraisement and sale directed to be issued by the Court, either by decree or by interlocutory order. The execution of these commissions is in general confined to the Marshal, to whom, in most instances, they are directed, and their execution is certified by him to the Registrar, to whom he pays over the proceeds, having previously deducted his own fees and expenses. The amount so paid over is supposed to remain in the hands of the Registrar, until directed by the Court to be paid, either in the entire or partially, according to their respective rights, to the persons entitled."

"The duties of this officer, as Registrar, may then be stated to be,—to attend the sittings of the Court; to take down the evidence of all witnesses examined in open court; to take down all orders and decrees pronounced by the Judge, and enter on the rule-book all pleadings and documents exhibited; to furnish attested copies of pleadings, proofs, affidavits, orders and decrees; to issue writs, citations and warrants, and to make reports on orders of reference.

"The mode of examination of witnesses in the Court of Admiralty, in all suits except those termed *summarissimè* is to have the depositions taken in writing by the Registrar in his chamber. In *summarissimè* proceedings, witnesses may be examined in open court; where the evidence is taken down by the Registrar, and afterwards transcribed into the rule-book, or if there is a necessity for it in consequence of the witness being resident in a foreign country, or being otherwise incapable of attending in person to give evidence, the Court has authority to issue a commission for examination of witnesses in writing. Depositions *in scriptis* are taken either in support of the allegations contained in the libel or pleading which they are intended to prove, or upon interrogatories filed by the opposite party.

"By the established practice of the Court, the duty of examining witnesses in all summary suits (originally a duty of the Judge) has been intrusted to the Registrar; who, when required so to do, goes to whatever part of the country the witnesses reside in, in cases where it is not deemed expedient to bring them to Dublin. It will easily be conceived how much the suitor may be aggrieved by delay under this system; as, except in vacations, the Registrar cannot have any opportunity for taking evidence at a distance from Dublin; and even then his absence might be attended with much inconvenience. It will be recollected that this officer, upon whose fidelity and accuracy, in taking depositions, so much depends, is by the civil law required to take evidence secretly, unrestrained by the presence of the parties interested, without having taken any oath faithfully to perform his duty, or being bound by any obligation whatsoever, save his own responsibility. The impartiality of the officer, under such circumstances, might well become matter of suspicion; but more especially in suits for seamen's wages, in which, should a commission issue, which occasionally happens, his own emoluments, and those of the judge and proctor, depend entirely upon the success of the promovent; since, in the event of his failure, not one of them would be paid. The Registrar has not, by virtue of his office, any inherent authority to perform this very important duty, but acts under a commission for that purpose, issued from the Court, in each separate cause, in all cases where the evidence is taken in the country. Where the witness is examined in Dublin, no commission issues, but the witness is sworn by the Judge to answer truly; and when his deposition, taken by the Registrar as examiner, is signed by him, he is again brought before the Judge, to be what is termed "repeated;" that is, to acknowledge his deposition and state it to be correct, and that the signatures to the different sheets are his handwriting. In cases in which the Registrar examines under a commission, he is thereby authorized to administer the oath to the witnesses, without the necessity of taking them before the Judge to be either sworn or repeated."

Office of
Marshal.

4. EXTRACTS FROM REPORT OF 1829 as to OFFICE OF MARSHAL.

Office of
Marshal.

"This officer is appointed, during pleasure, by letters patent from the Crown, under the Great Seal of Ireland, with a power of appointing a deputy or deputies as often as he shall think fit, and to remove such deputies at his will and pleasure. He takes an oath on admission to the office for the due performance of the several duties of it, but is not required to enter into any security, either for their execution, or for duly accounting for the moneys that from time to time come into his hands, though from the nature of his office considerable sums are continually received by him.

"The duties of the Marshal are altogether ministerial or executive. They are as follows:—'To attend the Court during its sittings, and enforce regularity and obedience to its orders; to execute warrants, attachments, monitions, inhibitions and citations, commissions for unlivery, appraisement and sale, jointly or severally, and make due returns thereon, and to discharge all vessels or goods attached by authority of the Court, and afterwards released by the same authority, or on executing bail.' Of these duties the principal are the execution of warrants for the seizing of ships or goods, and the consequent custody and care of them till regularly discharged, and the unlivery, appraisement and sale of ships or goods, under commissions for those several purposes.

"A suit in the Court of Admiralty, whether on a

proceeding *in rem*, or *in personam*, is commenced by a warrant for arrest, either of the thing sought to be rendered responsible for the demand, or of the person who is to be subjected to it, issued upon an affidavit, stating the nature and particulars of the demand. When the arrest is effected, the property or the person may be discharged, in case sureties or bail are substituted. The warrant for attaching a ship, or goods, sometimes issues without the fiat of the Judge, and occasionally on a fiat. It is uniformly addressed to the Marshal or his deputy, whomsoever, and directs them jointly and severally to *arrest, or cause to be arrested, the vessel, &c.*, and when arrested, to keep the same under safe and secure custody until further order. It also contains in the body of it a citation to all persons claiming interest in the thing sought to be arrested, to be and appear in the Court, on a day therein appointed. The execution of this process, which appears, from the manner in which it is directed, to be intrusted to the Marshal, or his deputy; has in practice been performed, either by this officer in person, by his general deputy, or by a special bailiff authorized by the Marshal, or his deputy, by indorsement on the warrant. The special deputation has been sometimes made to a bailiff nominated by the Marshal, but generally to the nominee of the promovent or his proctor, till latterly, when an alteration in this respect has taken place, and the Marshal,

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either with a view to asserting his exclusive right, or in consequence of the refusal by the proctors to give an indemnity, has altogether declined granting deputations to any person but his own nominee, where he does not execute the duty in person. The right of the Marshal to withhold a deputation, unless upon receiving an indemnity, cannot be disputed; the warrant is directed to him; he is responsible for the due execution of it, and the safe keeping of the ship or goods thereby attached; and if required by the party to delegate his authority, he has a right to demand security against every risk which may be incurred by reason of such delegation; and it appears to have been the practice to give the Marshal such indemnity when required. Upon this subject there exists some difference of opinion, as Mr. Richardson has stated the practice to be otherwise. Several instances, however, have been adduced in which Mr. Richardson, when Deputy Marshal, obtained indemnities, and was paid for preparing them, and attending their execution. The present Marshal, therefore, has claimed a discretion, as to granting a specialty to the proctor's nominee, not only where no indemnity is offered, but even where it is. This claim has produced much controversy between the practitioners of the Court and the Marshal; and the former, with a view to setting aside the Marshal's claim altogether, have insisted on their right to issue what are termed "*Universis* Warrants," which till lately, we believe, have never been resorted to in Ireland. These warrants are addressed "to all and singular persons" (omitting the Marshal), and are in use in the English Court of Admiralty, in most cases in which the ship sought to be attached lies at an outport; but even in such a case the proctor has an option of extracting a warrant addressed to the Marshal, and which is required to be done in all cases of vessels or goods lying within the port or district of London. The dispute upon the subject of warrants amongst other points of practice in controversy between the practitioners and the Marshal, having been brought before the Court, the present Surrogate, Sir Henry Meredyth, directed the Registrar to inquire into the practice of the English Court of Admiralty, which in this respect was ascertained to be as already stated. The Court has subsequently ordered that *Universis* warrants should not in future be extracted without the special order of the Court. Sir Henry Meredyth does not, however, consider the question as to the right of the Marshal to have the execution of all warrants as decided, but expresses an opinion favourable to the introduction of

Universis warrants. In this we cannot concur, as we consider that the execution of the process of the Court should not be taken out of the hands of a responsible officer, to whom it has always been intrusted, and placed at the disposal of persons who might, through design, or for want of experience, misuse its authority, and who are not under the immediate control of the Court, unless obvious advantages, and important savings of expense to the suitors, could be shown as likely to result from the change. Should the business of the Court be hereafter very much increased, it may perhaps be deemed expedient to allow the suitors the option of extracting *Universis* warrants for execution at the outports. But at present there does not appear any necessity for this alteration in the practice, which would tend to diminish the emoluments of the officer, already very trifling in amount. We therefore recommend that all warrants shall be directed to the Marshal.

"The right of requiring from the promovent security for costs on an appearance being entered by the impugnant to the warrant, although admitted to be conformable to the course of the Court of Admiralty in Ireland, equally with that of England, appears to have been wholly disused in practice in the former Court. In England, even in a suit for mariners' wages, the promovent is compellable to enter into such security, a most salutary precaution, which we strongly recommend for adoption in general practice in Ireland; as by thus giving to masters and owners of vessels their remedy over, against a substantial surety, bound together with the promovent in a bond for securing the impugnant's costs, many vexations and unfounded suits for seamen's wages would be prevented, and consequently, much of the complaints that are continually made by shipowners and merchants against the jurisdiction of the Court of Admiralty would be silenced in future, and no hardship experienced by them from being obliged, in the first instance, to discharge the just fees of the Marshal, together with such reasonable expenses as he had been put to. If the seaman appeared to have a just cause of action, his proctor would, in general, become his surety; if otherwise, he would dissuade him from embarking in the suit. On the whole, we recommend that the right of the Marshal to retain the vessel, notwithstanding a release, till paid his legal charges, be recognised; and that the impugnant be left to his remedy over, against the promovent or his surety, for his disbursements."

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Branches
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5.—EXTRACTS from REPORT of 1829, as to BRANCHES of CAUSES COGNIZABLE in other TRIBUNALS.

Branches
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cognizable
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tribunals.

"It now only remains for us to consider, 'whether any and what branches of the causes entertained in this Court are cognizable by any other tribunal, and at what comparative expense.'

"With respect to suits concerning the droits of Admiralty, we have no difficulty in stating that such suits, or any branch of them, are not cognizable by any other tribunal save the Court of Admiralty. We have, in the introductory part of this report, adverted to an erroneous opinion prevalent in Ireland, that the Salvage Acts embrace the same objects which come within the cognizance of the Admiralty in droit causes. A reference to our statement on that subject, and to the statutes there cited, will remove all doubt on this point. A suit in the Admiralty was originally an inquisition of office for ascertaining and securing to the Lord High Admiral such part of his revenue as consisted of droits, and belonged exclusively to his High Court of Admiralty, and is analogously to an inquisition of office concerning the droits of the Crown, which, being part of the King's casual revenue, is confined to the Court of Exchequer. These perquisites of the Admiral arose on the sea, and were not at any time the subject of common law jurisdiction. It follows

that with respect to the droits of the Admiralty, no existing Court, deriving its authority either from the common or statute law, can entertain a suit concerning them.

"The erroneous opinion to which we have alluded has probably been occasioned by confounding the jurisdiction in droit suits with that which the Court of Admiralty possesses in *pure salvage causes*. This subject of jurisdiction is expressly mentioned in the resolutions of the Privy Council in 1632, under the words 'saving of ships.' The principle upon which the Court of Admiralty has always entertained *pure salvage causes* (in which, be it observed, the Crown is no party, and has no interest), is the lien to which persons are entitled who volunteer their services in rescuing and preserving vessels in distress at sea, whether near the coast or at a considerable distance from it; and the accommodations they afford by furnishing cables, masts, anchors, and other necessities for that purpose. Persons thus succouring vessels in perilous circumstances are termed salvors. They look to the ship as their security for remuneration, and supply labour and materials on her credit; and when their claims are adjusted in the Court of Admiralty, the owners become

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entitled to a decree of restitution on payment of the sums awarded to such salvors. In these salvage cases the statutory jurisdiction is concurrent with that of the Admiralty, *within the limits to which the Salvage Acts have extended it.* The delay and expense necessarily incident to a high tribunal, sitting at a distance from the subject of contest, induced the Legislature to endeavour to introduce a more expeditious and less expensive mode of adjustment. How far this has been satisfactorily effected, admits of some question. The statutable tribunal certainly possesses great advantages. Like the Court of Admiralty, the proceedings are *in rem*. They are, in the first instance, entertained by officers of the Customs, the persons most conversant in matters of this description, and possessing the greatest facilities of acquiring accurate and authentic intelligence of these occurrences. They are attended, at least in the first instance, with infinitely less expense, and, if not litigated, far greater expedition. On the other hand, if the claims should be much contested, which we understand, when the value is considerable, is often the case, the parties have to encounter successively three distinct tribunals, which may be productive both of considerable expense and delay; and the jurisdiction may, and we believe frequently has been, objected to on account of the adjustment of the claims of salvors being referrible to the magistrates residing in the neighbourhood of the coast where the occurrence takes place, who, being often the landlords of the claimants, have a direct interest in their remuneration as the means of enabling their tenants to discharge arrears of rent; and may, therefore, be suspected of favour and partiality, and it has more than once occurred that some of the salvors have resorted to the statutable tribunal, and others have commenced process in the Court of Admiralty, thereby occasioning a clashing of jurisdictions and much discontent, from the difference in the sums awarded by the different tribunals. We think it would be an improvement, to the extent to which the statutes have carried it, to vest this jurisdiction exclusively in the officers of the Customs, in the first instance, with an appeal to the Court of Admiralty.

“With respect to suits in which the King's rights are not involved, we have, in the introductory part of this Report, endeavoured to explain their nature and the subjects which they embrace. The struggles which have been made between the Court of Admiralty and the Common Law Courts, relative to the extent of their respective jurisdictions, exhibit a series of claims so conflicting, and decisions so contradictory and irreconcilable with principle, as to render it a task of great difficulty to define the precise boundary that divides them.

“The claims of the Admiralty Court, on this subject, are clearly stated and explained, and most ably maintained in the celebrated argument of Sir Leoline Jenkins, before the House of Lords, on a bill to ascertain the jurisdiction of the Admiralty. The grounds and principles upon which those claims have been opposed are to be collected by a reference to the numerous decisions of the Courts of Common Law, in cases of prohibition, in which proceedings in the Court of Admiralty have been brought into question. Much of the opposition which the Admiralty Court has encountered may be attributed to Lord Coke, who ‘seems to have entertained not only a jealousy of, but an enmity against the jurisdiction.’ If called upon to state what, in our opinion, ought to be the subject of Admiralty jurisdiction, we should be much disposed to subscribe to the positions advanced, and the principles laid down by the eminent civilian already alluded to; but dealing with the actual and practical state of the question only, we have felt it our duty to confine our preliminary statement strictly to the subjects there enumerated.

“With respect to the causes entertained in the Admiralty Court, which are cognizable by the Courts of Common Law, a concurrent jurisdiction may be stated, as claimed by the latter generally in all cases of marine contracts under a fiction, which assumes, as

the ground of jurisdiction, that the contract, although actually made at sea, had occurred on land, and requires the venue to be laid accordingly. Amongst the few remaining causes entertained in the Court of Admiralty, which the Courts of Common Law have not prohibited, suits for mariners' wages are entitled to particular attention. These have been tolerated by different Judges on very different principles. The rigid construction given to the Statute 15 Rich. II., c. 2 (Eng.), relative to suits on other contracts of a maritime nature, under which the Common Law Courts interdicted the Admiralty jurisdiction, would, on principle, have demanded a similar rule in suits for seamen's wages. But the latter case is mentioned as an indulgence, and Judges have been astute to discover ingenious reasons for this deviation from a recognised principle. In fact, the interests of trade so imperatively demanded that mariners should be permitted, for recovery of their wages, to resort to a tribunal affording superior advantages and facilities, that the Courts were driven, in these causes to a relaxation of their usual rigour. Those advantages consist, first, in the power of arresting, detaining, and eventually selling the ship, against which the mariners possess a clear lien; secondly, in the right of joining every individual of the ship's company, with the exception of the master, in the same suit; thirdly, in the right which, in this Court, the mariners possess of giving evidence mutually for each other; fourthly, in the facility which this Court affords for the commencement of proceedings by the arrest of the ship, when compared with the difficulty, and frequently the impossibility of rendering the several owners amenable in a Court of Common Law; and above all other considerations, so far as the interests of trade are concerned, in affording a much more expeditious procedure than that of the Courts of Common Law, thereby enabling the masters of vessels to put to sea in perhaps a few days after the arrest of their vessel. The comparative expense of the respective jurisdictions, although from the varying nature of the proceedings which may be necessary in a suit, in either Court, arising from the circumstances and the disposition to litigation of the parties, very difficult to estimate, is decidedly in favour of the Admiralty, notwithstanding the want of regulation of the fees, and the loose mode of taxation of costs hitherto prevailing. Should the new table of fees, and the several regulations which we have suggested, be adopted, this advantage in favour of the Court of Admiralty will be further felt, and the consolidation of interventional suits, so far as may appear practicable, will still more diminish the expense and add to the expedition of suits. As to the claims of mariners, however, the Courts of Common Law unquestionably hold a concurrent jurisdiction, but we have not heard of any instance of a resort to those tribunals in Ireland. Such a suit could not at the soonest be concluded in less than two terms, and during its pendency the master might procure other hands to navigate the vessel, and by sailing away, deprive the mariners, though in possession of a judgment, of the subject-matter on which an execution might operate.

“But whilst the facilities and advantages, which a resort to the Admiralty jurisdiction affords to mariners are insisted on, it must be admitted that ship-owners complain of the manner in which suits are conducted, and of the decisions of the Court in causes of this description. The fact appearing in evidence, that seamen are never called upon by the officers of the Court for prompt payment, unquestionably affords facilities and encouragement to experimental or vexatious litigation; and from the poverty of the promovents, the ship-owners are frequently deterred from embarking in a defence, which, though attended with eventual success, would subject them to a certain loss, often exceeding the amount in difference, from having no solvent person to resort to for the sums necessarily expended in resisting an unjust demand. With a view of remedying this evil, which has arisen from the disuse of the original practice of the Court, enabling the

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impugnant to insist upon the promovent's entering into a caution, or stipulation, for paying the costs between party and party, we have recommended the revival of that practice; and that, as in England, the impugnant may require one sufficient surety in such stipulation—a recommendation, from the adoption of which we anticipate great advantage to the persons whose property is sought to be affected by such suits. If, in measuring the sufficiency of the proposed security, proper caution be observed by the Court, and the other regulations which we have submitted be duly attended to, we trust all just cause of complaint by the shipping interest will be removed. We feel it our duty, however, whilst on this part of the subject, to state that no successful appeal on the part of an impugnant can be shown in any suit for mariner's wages, lately decided in the Court of Admiralty.

“In suits by foreign merchants, founded on express hypothecations made in foreign countries, the advantages to the mercantile world, as well as to the shipping interests, of having a tribunal to resort to, which administers justice on the principles of the Civil Law, are quite evident. The circumstances of the law of the Court being generally understood, and in use in every maritime state, for adjusting disputes between merchants of whatever country; and that a foreign merchant, advancing money or supplying victuals, materials or repairs on the credit of the ship, can arrest that vessel for the debt thus incurred, must tend materially to the security of shipping and of merchandize, and thereby operate powerfully in favour of trade in general. To this may be added the power the Court of Admiralty possesses of issuing commissions for examination of witnesses, into foreign countries. These advantages are not possessed by the Courts of Common Law; and it may be very reasonably doubted whether foreign merchants would, in any instance, furnish the assistance to British vessels which we have described; if, after having experienced a want of punctuality in repayment, they had only a Common Law Court to resort to, where a system of jurisprudence, to which they are strangers, is administered; and where, instead of proceeding against the ship, they would be obliged, either to sue the master (a fugacious character) or the owners, who might be numerous and scattered over various parts of the world, and consequently not amenable to the process of a Court of Common Law.

“In addition to the modes of suing for the recovery of seamen's wages, already described, a statute of the Imperial Parliament, passed in the 59th year of his late Majesty, has given authority to Justices of the Peace, on the complaint of persons who have served as mariners on board any vessel trading from any place in England to parts beyond the seas or to any other place in Great Britain, and where the sum in question does not exceed £20, to summon the master or owner and to order payment, and to cause the amount to be levied by distress and sale of the goods of the defendant, or of the vessel or of its tackle or furniture. The act gives a power of appeal to the Court of Admiralty, under restrictions therein mentioned, and casts the burden of producing the written contract on the master or owners, reserving, at the

same time, all pre-existing remedies. The operation of this statute is confined to England, and we believe the remedy provided by it has not been much resorted to, and that little benefit would result from its adoption in Ireland as at present framed; for, as under its provisions, the vessel cannot be seized in the first instance, should the master be sued, and should he by a protracted defence, cause a delay in the proceedings, and afterwards send notice of appeal against the order made by the magistrates, for doing which he has allowed him, by the Act, forty-eight hours from the time of making the order, he may gain sufficient time to sail away, and prevent the execution of any order obtained under that statute. It is therefore obvious, that if a more summary tribunal for the recovery of a seaman's wages is intended to be appointed, in order to render it so effectual as to induce the mariner to resort to it for redress, the magistrate should be armed with an authority, in the first instance, to detain the vessel on which the seamen's lien specifically attaches. This detainer might be effected through the collector or other chief officer of the Customs, at the port at which the vessel lies at the time of complaint made; and, as the period occupied in the trial cannot be very much protracted, the duty imposed on the officer could not be very burthensome, as in the case of appeal the vessel might be liberated on a sufficient recognizance being executed.

“Having already, in a former part of this report, adverted to the English statute of 28 Henry VIII., c. 4, for transferring the criminal jurisdiction, theretofore exercised by the Court of Admiralty, according to the principles of the civil law, to a tribunal to be appointed by a commission; consisting of the admiral, his lieutenant or deputy, and three or four other persons, who were thereby empowered to decide in all cases of piracy, treason, murder, and felony, arising on the seas, according to the rules of the common law; and having also referred to the Irish Act of 11, 12, 13 James I., c. 2, whereby the several provisions of the said Act of 28 Henry VIII., are extended to Ireland; and also to the section of the Irish statute 23, 24 George III., c. 14, which directs that all commissions to be issued in virtue of said Act of 11, 12, 13 James I. shall be addressed to the Judge of the High Court of Admiralty, and to three or four other persons, to be named by the Lord Chancellor of Ireland: we beg to observe here, that the Act of 28 Henry VIII., only extending to cases of piracy, treason, murder, and felony, the English Parliament thought fit, by statute 39 George III., c. 37, to empower the Commissioners acting, by virtue of the Act of Henry VIII., to try, hear, and determine all minor offences and misdemeanors arising at sea, in the same manner as pointed out by said last-mentioned Act; but this enlargement of the criminal jurisdiction has never been extended to Ireland; an omission which has been attended with much inconvenience. We therefore recommend an extension of similar powers to the Irish Court; and also the adoption, for Ireland, of the provisions of the English Statute, 32 Geo. III., by which the times and places of holding the criminal sessions under the former Acts are regulated.”

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APPENDIX C.—PAPERS relating to the ESTABLISHMENT of the COURT, EMOLUMENTS of OFFICERS, and FEES.

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1. CIRCULAR addressed to OFFICERS of the HIGH COURT of ADMIRALTY in IRELAND respecting the Nature and Amount of their Emoluments.

FORM OF CIRCULAR.

High Court of Admiralty
(Ireland) Commission, Four Courts, Dublin,
5th December, 1863.

SIR—We are directed by Her Majesty's Commissioners for inquiring into the High Court of Admiralty of Ireland to request that you will make a Return, on or before the 8th day of January next, showing the nature and amount of the emoluments of your office for each of the five years ending 1st of November, 1863, specifying the nature of such emoluments, whether arising from salary or fees, dues, perquisites, or other profits.

As to salary, you will state the authority by which same has been fixed, and the period for which it has remained at its present amount.

As to fees or other profits, you will supply a list of the fees and other profits now receivable by you, and state the authority by which same have been

imposed, and the period during which each of such fees and other profits has remained at its present amount.

You will also state whether there are any and what other fees, dues, perquisites, or other profits, other than those above referred to, received in connexion with your office for any and what purpose, by whom they are received, and how they are applied; also the amount thereof for each of the five years ending 1st of November, 1863; and for what period same have remained at their present amount.

Your obedient servants,

(Signed), W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON,
Secretaries.

To ———

Circular
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luments.Circular
as to Off-
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luments.

2.—I. REPLY OF JOHN ANSTER, Esq., LL.D., REGISTRAR of the HIGH COURT of ADMIRALTY in IRELAND, Reply of John Anster, LL.D., Registrar, as to Emoluments, &c.

Dublin, 5, Lower Gloucester-street,
31st December, 1863.

GENTLEMEN—In reply to your letter, asking me for a return showing the nature and amount of the emoluments of my office, for each of the five years ending 1st November, 1863, stating the nature of such emoluments, and whether arising from salary, or fees, perquisites, or other profits, I beg to state—

The nature of my office is to attend the Court at its sittings, to keep the records and books of the Court, to give copies of all pleadings and documents, tax costs, examine witnesses, and at all times to be accessible to give warrants for arrest of vessels.

The emoluments of my office are solely derivable from fees and poundage or per centage on moneys paid into Court; there is no salary attached to the office.

With respect to the receipts of my office, I could not accurately give a return for the time specified in your letter, owing to the mode of payment of my fees; but I enclose a return for four years, to 31st of December, 1862, and as furnished by order of the House of Commons, and also a return of my fees for this year, from the 1st day of January up to this day.

I also enclose a list of fees receivable by me as Registrar, which fees have been established over 50

years, as the fees of the Registrar of the Court of Admiralty.

I perhaps have a right to assume that the object of the Commissioners, or one of their objects, in asking for these averages, is for the purpose of fixing the future salary of the office of Registrar, as I take it for granted that the office will be placed on salary. With reference to this I beg permission to state, that if the same jurisdiction be given to the Irish Court of Admiralty as the Court of Admiralty in England now has, my duties will be greatly increased; and were I still to be paid by fees, the fees must, from the increase of business, be much more than doubled. I therefore respectfully submit that this should be taken into consideration in fixing the amount of salary for the officer, and that it should not be based on the present averages alone.

Your obedient servant,

(Signed), JOHN ANSTER, LL.D., Registrar,
High Court of Admiralty, Ireland.

To W. Neilson Hancock, Esq., and
H. R. Vaughan Johnson, Esq.,
Secretaries,
High Court of Admiralty (Ireland)
Commission, Four Courts.

ESTABLISHMENT,
OFFICERS,
AND FEES.

A RETURN showing the amount of FEES received by the REGISTRAR of the HIGH COURT of ADMIRALTY of IRELAND for five years ending the 31st day of December, 1863:—

	Year ending 31st December, 1859,	£	s.	d.
Reply of John Anster, LL.D., Registrar, as to Emoluments, &c.	1859,	449	15	6
	" " 1860,	576	0	11
	" " 1861,	491	5	4
	" " 1862,	572	18	3
	" " 1863,	506	10	2

31st December, 1863.

A RETURN showing the FEES receivable in the OFFICE of the REGISTRAR of the HIGH COURT of ADMIRALTY, IRELAND:—

	Late currency.	£	s.	d.
Act, for each,		0	1	0
Apostles of transmiss, for every 90 words,		0	0	9
Appearance, on each,		0	3	0
Attachment,		0	13	4
Attested copies, for every 90 words,		0	0	9
Appeal, for every <i>viva voce</i> , entered,		0	1	0
Bail or stipulation, taking same,		0	6	8
Costs, taxing if under £20,		0	6	8
" for every subsequent £20,		0	3	4

Reply of John Anster, LL.D., Examiner, as to Emoluments, &c.

2.—II. REPLY of JOHN ANSTER, Esq., LL.D., EXAMINER of the HIGH COURT of ADMIRALTY of IRELAND, to preceding Circular.

Dublin, 5, Lower Gloucester-street,
31st December, 1863.

GENTLEMEN—In reply to your letter of the 5th instant, in which you state that the Commissioners for inquiring into the High Court of Admiralty of Ireland, request I would make a return, as Examiner of the High Court of Admiralty, of the nature and emoluments of that office for each of the five years ending 1st November, 1863, I beg to state that the emoluments derivable from my office as Examiner, are included in my return of profits as Registrar; and my duties as Examiner are, to examine witnesses *in scriptis*, either in Dublin, or on commission in the country or elsewhere. A list of my fees as Examiner I enclose.

I have to state that there is not any salary attached to my office as Examiner.

	Late currency.	£	s.	d.
Commissions of any kind,		0	13	4
Citations to witnesses,		0	3	4
Certificate,		0	5	5
Defaults, on each,		0	3	4
Decree,		0	10	0
Dismiss,		0	10	0
Exhibits,		0	1	6
Monition,		0	6	8
Order, for attested copy,		0	5	5
" if longer, for every 90 words,		0	0	9
Poundage, for the first £100,		5	0	0
" for every £100 or fractional part, per centum,		2	10	0
Records, attending with,		0	6	8
Release,		0	3	4
Report, for each (save on costs),		0	11	4½
" if more than 90 words, for each folio,		0	1	4
Search, for every 10 years,		0	3	4
Stipulation,		0	13	4
Summons,		0	2	8½
Warrant,		0	3	9½
Witnesses, production and examination, <i>viva voce</i> , each,		0	6	8
" cross examination,		0	5	5
" production in registry, like fees,		3	8	3
" in the country, per day,		3	8	3

31st December, 1863.

ESTABLISHMENT,
OFFICERS,
AND FEES.

Reply of John Anster, LL.D., Registrar, as to Emoluments, &c.

A RETURN showing the FEES receivable in the OFFICE of the EXAMINER of the HIGH COURT of ADMIRALTY, IRELAND:—

	Irish.	£	s.	d.
Examining witnesses in Dublin, each witness on direct,		0	6	8
Ditto, cross-examining,		0	5	5
Attendance out of Dublin on commission, per day,		3	8	3
Copies of depositions, per folio of 90 words,		0	0	9

31st December, 1863.

Your obedient servant,
(Signed), JOHN ANSTER, Examiner,
High Court of Admiralty, Ireland.

To W. Neilson Hancock, Esq., and
H. R. Vaughan Johnson, Esq.,
Secretaries,

High Court of Admiralty (Ireland)
Commission, Four Courts.

Reply of Clement Taylor, Esq., Marshal, as to Emoluments, &c.

2.—III. REPLY of CLEMENT TAYLOR, Esq., MARSHAL of HIGH COURT of ADMIRALTY of IRELAND, to preceding Circular.

Marshal's Office, Admiralty Court,
Four Courts, Dublin, 2nd January, 1864.

GENTLEMEN—In reply to your letter of the 5th ultimo, I beg, for the information of the Commission for inquiring into the Court of Admiralty, Ireland, to state that owing to the prolonged illness of my predecessor, previous to his decease in February, 1862, no return for the period you specify can be made. I, however, have ascertained from a return furnished by him to the Judge of the Court the amount of his fees for two years previous to that return, which amounted in the year 1859 to £412, and for the year 1860 to £314; and from February, 1862, the date of my appointment, for twelve months, ending February, 1863, the fees of my office were £361. No return for the year 1861 can at all be had, owing to the reason I allege for being unable to make the returns you require.

I have in reply to say there is no salary payable to me as Marshal, the income of my office being wholly derivable from fees, a list of which I subjoin.

There are no other fees, perquisites, or other profits received in connexion with my office.

The fees as returned herewith have been in operation from time immemorial, and have not been altered at any time.

LIST of FEES referred to in the foregoing Letter:—

	£	s.	d.
Caption fee, <i>in personam</i> ,	0	3	4
Custody fees, <i>in rem</i> , whilst in actual and responsible custody, per diem,	0	1	6
Deputation on warrant or attachment at the peril, risk, and expense of the party,	0	6	8
Defaults on each,	0	3	4
Decree, final,	0	6	8
Dismiss,	0	3	4
Poundage, first £100,	5	0	0
" subsequent £100, and in proportion for fraction,	2	10	0
Release,	0	3	4
Return on monition, citation, or precept,	0	3	4
Travelling in the country for sale, per diem, to include all expenses,	2	2	0
" for commission of unlivery and appraisal (as agreed by Proctors, or generally), per diem,	3	3	0

(Signed), CLEMENT TAYLOR, Marshal.

I have the honour to be, Gentlemen,
Your obedient servant,
(Signed), CLEMENT TAYLOR, Marshal.

To W. Neilson Hancock, Esq., and
H. R. Vaughan Johnson, Esq.,
Secretaries,
High Court of Admiralty (Ireland)
Commission, Four Courts, Dublin.

Reply of Clement Taylor, Esq., Marshal, as to Emoluments, &c.

2.—IV. REPLY of JOSEPH HAMILTON, Esq., Registrar of High Court of Delegates of Ireland, to preceding CIRCULAR.

13, Castelnau Villas, Barnes, Surrey,
January 28, 1864.

ESTAB-
LISHMENT,
OFFICERS,
AND FEES.

Reply of
Joseph
Hamilton,
Esq.,
Registrar
of the
High
Court of
Delegates,
Ireland.

GENTLEMEN,—I have the honour to acknowledge the receipt of yours of the 18th instant, and in compliance therewith send a return as required, showing the amount of the emoluments of my office as Registrar of Her Majesty's High Court of Delegates, for each of the five years ending the 1st of November, 1863, which emoluments arise altogether from fees on the different proceedings in the Court; no salary being attached to the office, as stated in my memorial, to which I refer.

I also send a list of the fees as received by me from the period of my appointment, which are the same as were charged and received by my predecessor in the office, J. Robinson, jun., Esq., who held it from the year 1798 to the year 1821.

There are not any fees, dues, perquisites, or other profits or emoluments received in connexion with the office, other than those stated in the list sent herewith. I beg leave to send also a statement of the duties of the office of Registrar, together with copies of the letters patent mentioned in the memorial.

I have the honour to be, your obedient servant,

(Signed), JOS. HAMILTON,
Registrar of Her Majesty's High Court
of Delegates.

ESTAB-
LISHMENT,
OFFICERS,
AND FEES.

Reply of
Joseph
Hamilton,
Esq.,
Registrar
of the
High
Court of
Delegates,
Ireland.

To W. Neilson Hancock and H. R.
Vaughan Johnson, Esqrs.,
Secretaries to the Commissioners.

A RETURN of the several Appeals from the High Court of Admiralty, Ireland, to the High Court of Delegates, for each of the Five Years ending the 1st of November, 1863, and the amount of the Registrar's Fees in each Cause respectively, in British Currency.

Appellants.		Fees.		Respondents.		Fees.	
		£	s. d.			£	s. d.
1859.							
Evans and Sons,		10	5 5½	Seaborne and Others,		3	14 7
McDonald,		10	11 11	The Hemisphere Boralis,		11	6 1
The Shamrock,		5	6 3	French,		4	7 2½
		26	3 7½			19	7 10½
1860.							
The Swan		13	19 11	The Sydney Jones,		16	5 9
O'Callaghan,		4	5 1	The Jacob,		No appearance.	
The Jerome,		12	0 8	The Anne,		13	11 10
The Anne,		5	1 7	The Jerome,		3	5 6
Croots,		3	19 6	The Triumph,		No appearance.	
The Ceres,		4	7 10	The Hero,		0	11 1
		43	14 7			33	14 2
1861.							
The Jerome,		4	12 6	The Anne,		7	13 0
The Ceres,		23	17 6	The Hero,		21	17 3
		28	10 0			29	10 3
1862.							
The Mary Stanhouse,		19	11 3	The European,		28	14 2
The Mangerlor,		15	10 9	The Nimroud,		16	17 5
First Cause—The Leda,		4	16 9	The Sophia,		5	5 10
		39	18 9			50	17 5
1863. To May 20.							
Second Cause—The Leda,		24	6 7½	The Sophia,		36	15 0½

RECAPITULATION.

	Appellants' Fees.		Respondents' Fees.		Total.	
	£	s. d.	£	s. d.	£	s. d.
1859,	26	3 7½	19	17 10½	46	1 6
1860,	43	14 7	33	14 2	77	8 9
1861,	28	10 0	29	10 3	58	0 3
1862,	39	18 9	50	17 5	90	16 2
1863,	24	6 7½	36	15 0½	61	1 8
					333	8 4

LIST of FEES charged by the Registrar of Her Majesty's High Court of Delegates in Causes of Appeal from the High Court of Admiralty.

	£	s. d.		£	s. d.
Act or rule in Registry on lodging the Commission of Delegates. Rule, 3s.; exhibit, 3s.,	0	6 0	Attendance on the five Judges with cases, and to convene the Court for hearing,	1	13 4
Engrossing Inhibition, containing citation and monition, to transmit proceedings from the Court <i>a quo</i> , Parchment, Seal, &c.,	4	0 2	Summons and service on five Judges and two Proctors, at 2s. 8½d. each,	0	18 11½
Act in registry Inhibition, returned with affidavit of service. Rule, 3s.; exhibit, 3s.,	0	6 0	Act and records attending hearing from Court day to Court day, each party,	0	9 8
Acts or rules in Court, 3s.; and attending with records, 6s. 8d.,	0	9 8	Registrar's fee on decree,	1	0 0
Act and exhibiting Proxy. Rule, 3s.; exhibit, 3s.,	0	6 0	Letters Remissory under seal, &c.,	2	5 6
Act Transmiss introduced,	0	6 0	Taxing costs and report,	0	10 8
Appellant's proportion of fees on Transmiss—one third of the number of office sheets it contains, at 9d. per folio of ninety words,			Attending two Judges to confirm report, 6s. 8d. each,	0	13 4
Respondent's proportion of fees on Transmiss—two thirds of the number of office sheets, at 9d. each,			Draft stipulation,	0	13 4
Act in registering Appellatory libel exhibited. Registrar, 3s.; exhibit, 3s.,	0	6 0	Fair copy,	0	6 8
Attested copy for Respondent, 9d. per folio of ninety words, according to length,			Exhibits, each,	0	3 0
Act Appellant's cases lodged,	0	6 0	Attendance with records in the Court of Chancery, or in the Law Courts, when required, per day,	1	2 9
Act Respondent's cases lodged,	0	6 0	Attendance with records at assize towns, according to the distance from Dublin; but such attendance rarely occurred,		

The fees above mentioned are charged in Irish currency, reduced to British currency, pursuant to the Act for assimilating the currency of Great Britain and Ireland, 1825-26.

ESTABLISHMENT,
OFFICERS,
AND FEES.

2.—V. REPLY of LAWFORD BURNE, Esq., SEAL-KEEPER of the HIGH COURT of ADMIRALTY of IRELAND, to preceding Circular.

ESTABLISHMENT,
OFFICERS,
AND FEES.Reply of
Lawford
Burne,
Esq., Seal-
Keeper.

High Court of Admiralty, Ireland.

GENTLEMEN.—In compliance with your request to that effect, I now make the following return of the amount of the emoluments of my office for each of the five years ending the 1st of October, 1863, hoping that will satisfy the return called for, as the accounts have always been made up to the usual quarter days, viz., the last day of March, June, September, and December, viz. :—

	£	s.	d.
For year ending 1st October, 1859,	23	15	10
" " " 1860,	17	17	9
" " " 1861,	10	5	8
" " " 1862,	12	17	10
" " " 1863,	10	5	7

The nature of these emoluments is explained by the table of them, extracted from the Table of Court Fees, viz. :—

	s.	d.
Warrant,	2	6
Citation,	3	1

	s.	d.
Monition,	3	1
Commission of Affidavits,	3	1
Release,	3	1
Commission of Sale,	18	6

Reply of
Lawford
Burne,
Esq., Seal-
Keeper.

There is no salary attached to my office.

These emoluments are my only fees, perquisites, or profits, and have been established by the authority of the usage and practice of the Court, and have remained at their present amount since the year 1823.

I remain, Gentlemen,
Your obedient servant,

(Signed), LAWFORD BURNE, *Seal-Keeper*,
High Court of Admiralty, Ireland.

To W. Neilson Hancock, Esq., and
H. Vaughan Johnson, Esq.

Reply as
to Crier.

2.—VI. REPLY as to EMOLUMENTS of the CRIER.

Reply as
to Crier.

High Court of Admiralty, Ireland.

GENTLEMEN.—In reply to your request for a return of the emoluments of the Crier of this Court, I am to inform you that they consist of the following fees only, viz. :—

	s.	d.
Fee on a Decree,	10	0
" Dismiss,	5	0

these fees having been established by the authority of the Table of the Court Fees, and remaining so since 1823.

The salary attached to the office is £28 per annum, granted and paid by the Treasury, under their letter to the Judge, dated 23rd May, 1856.

I remain, Gentlemen,
Your obedient servant,
(Signed), LAWFORD BURNE, *Secretary, pro tem.*

To W. Neilson Hancock, Esq., and
H. Vaughan Johnson, Esq.

Letter to
Judge as
to Emolu-
ments and
Fees.

3. LETTER to JUDGE of HIGH COURT of ADMIRALTY of IRELAND, as to Emoluments and Fees.

Letter to
Judge as
to Emolu-
ments and
Fees.

High Court of Admiralty
(Ireland) Commission, Four Courts, Dublin,
15th December, 1863.

SIR—Her Majesty's Commissioners for inquiring into the High Court of Admiralty of Ireland request that you will be good enough to state, for their information, the nature and amount of the Fees belonging to your office, and accounted for by you to the Treasury, under the provisions of Statute 2 & 3 Wm. IV., c. 116, in each of the five years ended 1st of November, 1863.

They also request that you will state the authority by which such fees have been fixed, and the period

during which each of such fees has remained at its present amount; and also that you will state whether you are entitled to receive any dues, perquisites, or other profits, over and above the salary of £500 a year from the Consolidated Fund, provided for the Judge of the High Court of Admiralty in Ireland, by Statute 2 & 3 Wm. IV., c. 116.

Your obedient servants,
(Signed), W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON,
Secretaries.

The Honorable Judge Kelly,
High Court of Admiralty.

Reply of
Judge as
to Emolu-
ments and
Fees.

4. REPLY of JUDGE of the HIGH COURT of ADMIRALTY as to Emoluments and Fees.

Reply of
Judge as
to Emolu-
ments and
Fees.

Chambers, High Court of Admiralty,
2nd January, 1864.

GENTLEMEN.—In reply to your request of 15th ultimo, I beg to inform you that the amount of Fees belonging to my office, and accounted for by me to the Treasury under the provisions of 3rd and 4th William IV., cap. 116, for each of the five years ended on the 1st of October, 1863, is as follows, namely :—

	£	s.	d.
For the year ending 1st October, 1859,	78	18	6
" " " 1860,	48	12	0
" " " 1861,	38	3	2
" " " 1862,	43	2	6
" " " 1863,	29	14	8

N.B.—The above being the returns as given and paid into the Treasury, I was unable, therefore, to give them, as requested by your letter, to the 1st of November in each of these years.

The nature of these Fees is best explained by the following table of them :—

	s.	d.
On each Fiat,	6	2
" Default,	6	2

	s.	d.
On each Decree,	18	6
" Dismiss,	9	3
Repeating Witness,	4	0
Confirming Costs,	4	0

The authority by which this table has been fixed dates from 1823, establishing them as the due and accustomed Fees by tables of 1716 and 1807.

I am entitled to receive no dues, perquisites, or other profits over and above the salary of £500 a year provided under the above statute.

I am, Gentlemen,
Your obedient servant,

(Signed), THOMAS F. KELLY, *Judge.*

To Wm. Neilson Hancock, LL.D., and
H. R. Vaughan Johnson, Esqrs.,

Secretaries.

ESTABLISHMENT,
OFFICERS,
AND FEES.ESTABLISHMENT,
OFFICERS,
AND FEES.Return by
Judge as
to Ex-
penses of
Court.Return by
Judge as
to Ex-
penses of
Court.

5. RETURN by JUDGE of HIGH COURT of ADMIRALTY of Expenditure of Sums voted for incidental Expenses.

Chambers, High Court of Admiralty of Ireland,
12th February, 1864.

SIR,—In compliance with the request of the Commissioners, of the 10th instant, I make the following return of the expenses of this Court for the five years ending the 31st of December, 1863, last.

I am, Sir, your obedient servant,

(Signed), THOS. F. KELLY, Judge.

Expenses of the High Court of Admiralty of Ireland for the five years ending the 31st December, 1863. The same, consisting of £40 per annum, jointly to the Court-keeper and Crier, in separate salaries of £12 and £28 per annum each; and the balance over said £40 being distributed to the waterman, charwoman, candles, rubbers, and dusters; and during 1859, 1860, and 1861, for coals, &c.—a varying balance, but absorbed

in those varying and necessary demands. Then there are the court, a chamber, and a Registrar and Marshal's office to be kept in warmth and cleanliness.

	£	s.	d.
31st December, 1859, . . .	47	5	6
" 1860, . . .	55	6	1
" 1861, . . .	50	1	5
" 1862, . . .	47	9	0
" 1863, . . .	48	2	9

(Signed), THOS. F. KELLY,

Judge of the High Court of Admiralty
of Ireland.

To W. Neilson Hancock, &c., &c.,
High Court of Admiralty Commission,
Four Courts.

Patent of
appoint-
ment of
Judge
Kelly.Patent of
appoint-
ment of
Judge
Kelly.

6. COPY of PATENT of APPOINTMENT of THOMAS FREDERICK KELLY, LL.D., as JUDGE of the HIGH COURT of ADMIRALTY in IRELAND, dated 26th November, 1855.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and soforth, to all unto whom these presents shall come, greeting. Whereas, we being well assured of the loyalty, integrity, and ability of our trusty and well-beloved Thomas Frederick Kelly, Doctor of Laws, have been graciously pleased to constitute and appoint him to be Judge of our High Court of Admiralty in that part of the said United Kingdom of Great Britain and Ireland called Ireland, in the room of Doctor Joseph Stock, deceased; know ye, therefore, that we, of our special grace, certain knowledge, and mere motion, by and with the advice and consent of our right trusty and well-beloved councillor, Maziere Brady, our Chancellor of that part of our said United Kingdom called Ireland; the Most Reverend Father in God, our right trusty and entirely beloved cousin and councillor, Richard, Archbishop of Dublin; and our right trusty and well-beloved councillor, John, Lord Seaton, a.c.b., General in our Army, and commanding our Forces in Ireland aforesaid; and according to the tenor and effect of our letter under our privy signet and royal sign manual, bearing date at our Court at Saint James's the fifteenth day of November, One thousand eight hundred and fifty-five, in the nineteenth year of our Reign, and now enrolled in the Rolls of our High Court of Chancery in Ireland aforesaid, have made, constituted, and appointed, and by these presents for us, our heirs and successors, we do make, constitute, and appoint the said Thomas Frederick Kelly Judge of our High Court of Admiralty in that part of our United Kingdom called Ireland; to have, hold, and enjoy the said office of Judge of our said High Court of Admiralty in Ireland aforesaid unto him the said Thomas Frederick Kelly as long as he shall behave himself well therein; and further, of our special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, and according to the tenor and effect of our said letter, we have given and granted, and by these presents for us, our heirs and successors, we do give and grant unto the said Thomas Frederick Kelly, for the due execution of the said office, all the rights, powers,

authorities, jurisdictions, salaries, profits, and emoluments whatsoever to the said office belonging, in as large and ample manner as the said Doctor Joseph Stock, or any other person heretofore hath, or of right ought to have, held and enjoyed the same; and further, of our special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, and according to the tenor and effect of our aforesaid letter, we have given and granted, and by these presents for us, our heirs and successors, we give and grant unto the said Thomas Frederick Kelly full power and authority to depute and surrogate in his place one or more deputy or deputies as often as he shall think fit, and such substitute or substitutes of pleasure to revoke, and to exercise, expedite, and execute all and singular the premises, or any of them, by his aforesaid deputy; provided always, and we do hereby save and reserve unto us, our heirs and successors, the right of substituting and appointing officers and ministers whatsoever to our said High Court of Admiralty in Ireland aforesaid appertaining and belonging; and we do by these presents firmly enjoin our Treasurer, Vice-Treasurer, and Receiver-General in Ireland aforesaid, and every of them, that immediately upon sight of these our letters patent or the enrolment hereof, they and every of them shall pay, or cause to be paid, all and singular the said fees, salaries, profits, and emoluments unto the said Thomas Frederick Kelly during the time he shall continue in the said office, without further writ, warrant, or command from us to be had, procured, or obtained; provided always that these our letters patent be enrolled in the Rolls of our High Court of Chancery in that part of our said United Kingdom called Ireland within six calendar months next ensuing the date of these presents. In witness whereof, we have caused these our letters to be made patent. Witness our aforesaid Justices-General and General-Governor of Ireland, at Dublin, the 26th day of November, 1855.

Enrolled the 27th day of November, 1855.

(Signed), JOHN REILLY,
Deputy Keeper of the Rolls in Ireland.Patent
of Dr.
Anster as
Registrar.Patent
of Dr.
Anster as
Registrar.

7. COPY of PATENT of APPOINTMENT of JOHN ANSTER, LL.D., as REGISTRAR of the HIGH COURT of ADMIRALTY in IRELAND, dated 15th September, 1837.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and soforth, to all unto whom these presents shall come, greeting: Whereas by letters patent passed under the great seal of Ireland, his late Majesty William the Fourth did give and grant unto John Anster, LL.D., the office of Registrar of our Court of Admiralty, in that

part of our United Kingdom of Great Britain and Ireland called Ireland, during his late Majesty's pleasure. And whereas we are pleased to revoke and determine the said letters patent; know ye, therefore, that we of our special grace, certain knowledge, and mere motion, by and with the advice and consent of our right trusty and right well-beloved cousin and councillor, Constan-

ESTABLISHMENT,
OFFICERS,
AND FEES.

Patent
of Dr.
Anster as
Registrar.

tine Henry, Earl of Mulgrave, our Lieutenant General and General Governor of that part of our said United Kingdom of Great Britain and Ireland called Ireland, have revoked and determined the said letters patent, whereby the said office of Registrar of our said Court of Admiralty in Ireland was given and granted unto the said John Anster, for and during his said late Majesty's pleasure as aforesaid, and by these presents we do revoke and determine the same. And whereas we are minded and have thought fit to give and grant the said office of Registrar of our said Court of Admiralty in Ireland to the said John Anster; know ye, therefore, that we of our like special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, have given and granted, and by these presents we do give and grant unto the said John Anster, the said office of Registrar of our High Court of Admiralty in that part of our said United Kingdom of Great Britain and Ireland called Ireland, to do, act, and perform such matters and things as is and are necessary and requisite to be done, acted, and performed by such Registrar in said office; to have and to hold the said office of Registrar of our High Court of Admiralty in Ireland, with all the benefit, emoluments, and perquisites thereunto belonging, and which usually and of right ought to belong thereto during our will and pleasure, and likewise with power to him the said John Anster, to depute and in his place and stead one or more deputy or deputies as often as he shall think fit to put, and such deputy or deputies at pleasure to remove and to exercise, expedite, and execute all and singular the premises or any of them by his aforesaid deputy or deputies; to have

and to hold, occupy, exercise, and enjoy freely and quietly by himself, or his sufficient deputy or deputies, by him to be substituted as aforesaid, the said office of Registrar of our said Court of Admiralty in Ireland during our will and pleasure as aforesaid. And further of our more special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, we have given and granted, and by these presents we do give and grant unto the said John Anster, that these our letters patent or the enrolment thereof, shall be in all things firm, good, valid, and sufficient and effectual in the law unto him the said John Anster against us in all our Courts within that part of our said United Kingdom of Great Britain and Ireland called Ireland, and elsewhere wheresoever, and that all and singular the premises shall be taken and construed in the best and most beneficial manner in favour of the said John Anster, notwithstanding any act, matter, or thing hereinbefore done in anywise to the contrary. Provided always that these our letters patent be enrolled in the Rolls of our High Court of Chancery in that part of our said United Kingdom called Ireland, within the space of six calendar months next ensuing the date of these presents. In witness whereof we have caused these our letters to be made patent. Witness Constantine Henry, Earl of Mulgrave, our Lieutenant-General and General Governor of Ireland, the 15th day of September, in the first year of our reign.

Enrolled the 7th day of September, 1837.

(Signed), JOHN REILLY,
Deputy Keeper of the Rolls in Ireland.

ESTABLISHMENT,
OFFICERS,
AND FEES.

Patent
of Dr.
Anster as
Registrar.

Patent
of Clement
R. Taylor,
esq., as
Marshal.

8. COPY OF PATENT OF APPOINTMENT OF CLEMENT RUSSELL TAYLOR, Esq., as MARSHAL of the HIGH COURT of ADMIRALTY in IRELAND, dated 14th March, 1862.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, to all unto whom these presents shall come, greeting. Whereas the office or place of Marshal of our High Court of Admiralty in Ireland is now vacant by the death of John M'Laughlin, Esquire; know ye, therefore, that we of our special grace, certain knowledge, and mere motion, by and with the advice and consent of our right trusty and right well-beloved cousin and councillor, George William Frederick, Earl of Carlisle, k.g., our Lieutenant-General and General Governor of that part of our said United Kingdom of Great Britain and Ireland called Ireland, have given and granted, and by these presents we do give and grant unto Clement Russell Taylor, Esquire, the said office or place of Marshal of our High Court of Admiralty in that part of our said United Kingdom called Ireland, to do and perform all such matters and things as are requisite and necessary to be done and performed by such Marshal; to have and to hold the said office or place of Marshal of our said High Court of Admiralty in that part of our said United Kingdom called Ireland unto the said Clement Russell Taylor, during our pleasure, together with all benefits, emoluments, perquisites, and advantages thereunto belonging, in as large, ample, and beneficial manner, to all intents and purposes, as the

said John M'Laughlin, or any other person or persons, had, or of right ought to have held, and enjoyed the same, the said office or place to be exercised and executed by him the said Clement Russell Taylor, or by his sufficient deputy or deputies; and our further will and pleasure is, and by these presents we do grant that these our letters patent, or the enrolment thereof, shall be in all things firm, good, valid, sufficient, and effectual in the law, unto him, the said Clement Russell Taylor, against us in all our Courts as well within Ireland aforesaid as elsewhere wheresoever, any provision or restriction, or any other thing, cause, or matter whatsoever to the contrary thereof, or in anywise notwithstanding; provided always that these our letters patent be enrolled in the Rolls of our High Court of Chancery, in that part of our said United Kingdom called Ireland, within the space of six calendar months next ensuing the date of these presents. In witness whereof we have caused these our letters to be made patent. Witness our aforesaid Lieutenant-General and General Governor of Ireland, at Dublin, the 14th day of March, 1862.

Enrolled the 15th day of March, 1862.

(Signed), JOHN REILLY,
Deputy Keeper of the Rolls in Ireland.

Patent
of Clement
R. Taylor,
esq., as
Marshal.

Patent
of Joseph
Hamilton,
esq., as
Registrar
of High
Court of
Delegates.

9. COPY OF PATENT OF APPOINTMENT OF JOSEPH HAMILTON, Esq., as REGISTRAR of APPEALS and PROVOCATIONS SPIRITUAL in IRELAND, dated 28th September, 1837.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, to all unto whom these presents shall come, greeting. Whereas, by letters patent, passed under the great seal of Ireland, His late Majesty, William the Fourth, did grant unto Joseph Hamilton, Esquire, the office of sole Registrar of Appeals and Provocations Spiritual in Ireland, during His late Majesty's pleasure. And whereas, we are pleased to revoke and determine the same; know ye, therefore, that we of our special grace, certain knowledge, and mere motion, by and with the advice and consent of

our right trusty and right well-beloved cousin and councillor, Constantine Henry, Earl of Mulgrave, our Lieutenant-General and General Governor of Ireland, have revoked, determined, and made void the said letters patent whereby the said office of sole Registrar of Appeals and Provocations Spiritual in Ireland was given and granted unto the said Joseph Hamilton for and during His said late Majesty's pleasure, and by these presents we do revoke, determine, and make void the same; and know ye further that we of our like special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, have given and

Patent
of Joseph
Hamilton,
esq., as
Registrar
of High
Court of
Delegates.

ESTABLISHMENT, OFFICERS, AND FEES.

Patent of Joseph Hamilton, esq., as Registrar of High Court of Delegates.

granted, and by these presents we do give and grant unto the said Joseph Hamilton the said office of sole Registrar of Appeals and Provocations Spiritual in Ireland, and him the said Joseph Hamilton, Registrar of Appeals and Provocations Spiritual in Ireland, we have made, constituted, and ordained, and by these presents we do make, constitute, and ordain; to have and to hold and enjoy the same to him the said Joseph Hamilton, during our pleasure, together with all fees, salaries, profits, perquisites, emoluments, benefits, and advantages thereunto belonging, in as full and ample a manner, to all intents and purposes, as the said Joseph Hamilton, or any other person or persons formerly held and enjoyed the same; the said office to be executed and exercised by him, the said Joseph Hamilton, or his sufficient deputy or deputies, to be approved of by our said Lieutenant-General or other Chief Governor or Governors of that part of our said United Kingdom called Ireland for the time being. And further, of our more special grace, certain knowledge, and mere motion, by and with the advice and consent aforesaid, we have given and granted, and by these presents, we do give and grant unto the said Joseph Hamilton, that these, our letters patent, or the enrolment thereof, shall be in all things firm, good, valid, sufficient, and effectual in the

law against us in all our Courts within that part of our said United Kingdom of Great Britain and Ireland called Ireland, and elsewhere wheresoever, and that all and singular the premises shall be taken and construed in the best and most beneficial manner in favour of the said Joseph Hamilton, notwithstanding any act, matter, or thing hereinbefore done in anywise to the contrary; provided always that these our letters patent be enrolled in the Rolls of our High Court of Chancery within the space of six calendar months next ensuing the date of these presents. In witness whereof we have caused these our letters to be made patent. Witness Constantine Henry, Earl of Mulgrave, our Lieutenant-General and General Governor of Ireland, at Dublin, the 28th day of September, in the first year of our Reign.

C. FITZSIMONS,

Clerk of the Crown and Hanaper.

[SEAL.]

Enrolled in the Office of the Rolls of Her Majesty's High Court of Chancery in Ireland, the 9th day of October, 1837.

FRAS. J. NASH,

Temporary Officer, under 6th Geo. 4, chap. 30.

ESTABLISHMENT, OFFICERS, AND FEES.

Patent of Joseph Hamilton, esq., as Registrar of High Court of Delegates.

Communication to Judge of Court of Probate, Ireland, as to office of Judge of the Courts of Probate and Admiralty in Ireland.

10.—COMMUNICATION from the COMMISSIONERS to the JUDGE of the COURT of PROBATE, IRELAND, as to the provisions in Statute 20 and 21 Vic. c. 29, as to appointment of same person Judge of Court of Probate and Court of Admiralty in Ireland.

High Court of Admiralty (Ireland) Commission, Four Courts, Dublin, January 21, 1864.

SIR,—I am directed by Her Majesty's Commissioners for inquiring into the High Court of Admiralty of Ireland to call your attention to the 14th section of the Statute 20 and 21 Vic., c. 79, by which it is provided that, upon the next vacancy in the office of Judge of the High Court of Admiralty of Ireland, it shall be lawful for Her Majesty, if she think fit, to appoint the person being Judge of the Court of Probate to be Judge of the said Court of Admiralty also; and after the union of the said two offices, they shall be thenceforth held by the same person; and the Commissioners have directed me to state, for your information, that it will be part of their duty to take into consideration the provisions of that section of the statute, and to report their recommendations thereupon.

The Commissioners have further directed me to transmit to you the accompanying printed papers, containing a statement of the practice and procedure of the Courts of Admiralty of England and Ireland, respectively, and of the differences which at present exist between the practice of the two Courts; also a copy of the rules which regulate the practice of the English Court.

The Commissioners are disposed to recommend the assimilation (as far as practicable) of the practice and

procedure of the High Court of Admiralty of Ireland to the practice and procedure of the High Court of Admiralty of England.

The extension of the jurisdiction of the Court of Admiralty of Ireland to questions of demurrage, and freight, and other matters of a like nature, and to disputes between captains and owners of vessels and merchants, is also under the consideration of the Commissioners.

The Probate Court has now been six years in operation, and you are aware of the extent of its present business, and may, probably, be in a position to form an opinion as to the future business of the Court.

The Commissioners direct me, lastly, to state that they are very desirous to have the benefit of your opinion as to whether the arrangement contemplated by the statute could now be carried into effect with advantage to the public; and they further request the aid of such observations on this matter as your judgment and experience may suggest. The favour of an early reply is respectfully requested.

I am, sir, your obedient servant,

(Signed), W. NEILSON HANCOCK,
Secretary.

The Right Hon. the Judge of the Court of Probate.

Communication to Judge of Court of Probate, Ireland, as to office of Judge of the Courts of Probate and Admiralty in Ireland.

Reply of Rt. Hon. Richard

Keatinge, Judge of Court of Probate, Ireland, as to office of Judge of Courts of Probate and Admiralty in Ireland.

11.—REPLY of Right Hon. RICHARD KEATINGE, Judge of the Court of Probate, Ireland, to preceding Communication.

Merrion-square, February 4, 1864.

SIR,—I have to acknowledge the receipt of the letter which you, as Secretary of the High Court of Admiralty (Ireland) Commission, addressed to me on the 21st January last, and the very clear and able statement of Dr. Townsend as to the differences in the practice and procedure of the English and Irish Courts of Admiralty, and a copy of the rules of the English Court.

I could not give any reply to that letter until I had obtained some information as to the amount of business done in the Court of Admiralty of England.

Dr. Lushington is not only Judge of the English Court of Admiralty, but is also Dean of the Arches, and a member of the Judicial Committee of the Privy Council. I am informed that, although the duties of the two last-mentioned offices occupy no inconsiderable portion of his time, he is able to perform the entire of his judicial duties without having more to do than can reasonably be required from a judge. It is, however, to be borne

in mind that, in the English Court of Admiralty, the Judge has the assistance of a most efficient registrar, assistant-registrar, and other officers, who, under the rules of the Court, perform many duties which otherwise would devolve on the Judge. The registrars, in relation to their duties, are, by statute, armed with all the powers formerly possessed by the Surrogates of the Judge in Chambers; and they also have the assistance of merchants in the taking of accounts; and in cases in which nautical skill is required, the Judge has the assistance of Trinity masters.

I assume that, in the event of the jurisdiction of the Court of Admiralty of Ireland being extended (which you state is now under the consideration of the Commissioners), the Judge and Registrars will have the same assistance in carrying on the business of the Court as the Judge and Registrars of the English Court of Admiralty now have.

I think it is reasonable also to anticipate that the

ESTABLISHMENT,
OFFICERS,
AND FEES.

Reply of
Rt. Hon.
Richard
Keatinge,
Judge of
Court of
Probate,
Ireland,
as to office
of Judge
of Courts
of Probate
and Ad-
miralty in
Ireland.

business of the Court of Admiralty of Ireland, after its jurisdiction and practice shall be assimilated to the jurisdiction and practice of the English Court of Admiralty, cannot be more in amount than one-half of the business of the English Court; and therefore, I am inclined to think that one efficient Judge could perform the duties of Judge of the Court of Probate, and Judge of the Court of Admiralty of Ireland; but I do not consider the information I am now in possession of so full as to enable me to form a decisive opinion on this point.

As to the propriety of uniting the Admiralty and Probate jurisdiction of Ireland, and having the same Judge to preside over both, it is to be remembered that each Court will require a separate staff of officers, and therefore, in that respect, no saving of expense can be expected.

As the Commissioners have been pleased to desire my opinion, whether the arrangement contemplated by the Probate Act, for transferring the judgeship of the Court of Admiralty to the Judge of the Court of Probate, could now be carried into effect with advantage to the public and to request the aid of such observations as my judgment and experience might suggest, I take leave to express my very serious doubts as to the necessity or propriety of giving to the Court of Admiralty jurisdiction in matters in which parties can now obtain redress in the Court of Chancery, or Courts of Common Law. I allude particularly to mortgages and the class of cases provided for by the 24th Victoria, c. 10.

The reasons which might have existed in England for giving such jurisdiction to the Court of Admiralty, do not, as it appears to me, apply to this country, where it seems to be very generally admitted that all the Judges of the Court of Chancery and Courts of Common Law have full time for the discharge of their several judicial duties; and I would suggest that if, for any reason, Her Majesty's Government should desire to transfer the jurisdiction of the Court of Admiralty, either with or without the additional jurisdiction proposed to be created for it, to some other Court, it would, with greater advantage to the public, be transferred to one of the Courts of Common Law than to the Court of Probate.

If transferred to a Court of Common Law, one of the four Judges of the Court might, from time to time, sitting alone, discharge the duties of the Admiralty Court.

I am not, however, to be understood as at all recommending any such transfer.

I apprehend there may be considerable difficulty in the constitution of a Court of Appeal in Admiralty cases if the jurisdiction be extended, as in England. I presume an appeal from the Court of Admiralty must, in all cases, be to the same Court, and that there cannot be an appeal to different Courts of Appeal, according to the nature of the matters in issue in the cause.

The eighth Article of the Union (mentioned by Dr. Townsend for another purpose), provides expressly "that all writs of error should, from and after the Union, be finally decided by the House of Lords of the United Kingdom," and then the article goes on to state, "provided that from and after the Union, there shall remain in Ireland an Instance Court of Admiralty for the determination of causes, civil and maritime only, and that the appeal from sentences of the said Court shall be to his Majesty's Delegates in his Court of Chancery in that part of the United Kingdom called Ireland."

This article seems intended to provide for all sniters in the Superior Court in Ireland the right to have their causes finally decided in the House of Lords, as a Court of Appeal, and also to provide that the appeals from the Court of Admiralty should be to a Court of Delegates; and further, that the Court of Admiralty should continue, for the determination of causes civil and maritime only. I think the word "only" in that article, is not an unimportant one; it seems open to the argument that it was intended that the Irish Court of Admiralty should always be preserved as a separate Court, for causes civil and maritime, and none other, and that no cause should be within its jurisdiction which did not come within the description of *civil and maritime*.

I take it to be clear that under the eighth article, the appeal from the decision of the Court of Admiralty can only be to a Court of Delegates, and I think the conferring on the Irish Court of Admiralty the jurisdiction to deal with matters, which in this country, at the time of the Union, and ever since, have been within the jurisdiction of the Courts of Chancery and Courts of Common Law, might by many be considered as a violation of that part of the article which provides, that writs of error and appeals shall be finally decided in the House of Lords.

Independently of the objection arising from the eighth article, and even supposing it to be of no value, I think it would not be of advantage to the public, that the Irish Court of Admiralty should be invested with jurisdiction over matters at present cognizable only in the Court of Chancery and Courts of Common Law. I think it might well be objected to such a transfer, that in important cases, parties would be deprived of the right they at present enjoy, of appealing to the House of Lords.

There is another matter connected with the subject of your letter, as to which (to guard against any misconstruction of this communication at any future period) I think it right to make one or two observations, though it may seem premature to do so now, as the office of the Judge of the Court of Admiralty in Ireland is not yet vacant, and I have no right to assume that it is intended to create any vacancy for the purpose of transferring the Admiralty jurisdiction to the present Judge of the Court of Probate. I, however, desire to state that, though in the event of a vacancy in the Irish Court of Admiralty, so long as its jurisdiction is not more extensive than it was at the time of the passing of the Irish Probate Act, and the Judge shall have all the powers then belonging to the Judge of the Court, including the right to appoint a Surrogate, I shall feel myself bound to accept the office of Judge of that Court, if Her Majesty be pleased so to desire, although in that case I should consider the salary of the office extremely inadequate; yet if the jurisdiction of the Court be materially extended, and the duties of the Judge materially increased, or if his right to appoint a Surrogate be not continued, I submit, that even, if according to the *letter* of the statute, I should be bound to accept the office (which I by no means admit), it would be against its *spirit* to require me to do so, and be an *injustice*, which, I venture to hope, Her Majesty's Government would not desire, and which, I believe, Parliament would not sanction.

I have the honour to be, sir, your obedient servant,

(Signed),

R. KEATINGE.

W. Neilson Hancock, Esq.

Letter to
Registrar
as to per-
formance
of duties
by deputy.

12.—COPY of LETTER addressed to the REGISTRAR of the ADMIRALTY COURT in reference to the performance of his Duties by Deputy.

High Court of Admiralty, Ireland, Commission,
Four Courts, 23rd February, 1864.

SIR,—I am directed by Her Majesty's Commissioners for inquiring into the High Court of Admiralty of Ireland to request that you will state whether you discharge your duties as Registrar to any and what extent by deputy, and whether such deputation is permanent or temporary, and that you will state the names of such persons as have, from time to time, acted as your depu-

ties, or performed any part of your duties, together with the sums paid to any such deputy, clerk, or other assistant.

I am to request your answer on Friday next, by three o'clock.

Your obedient servant,

(Signed),

W. N. HANCOCK, Secretary.

John Anster, Esq., LL.D., Registrar.

ESTABLISHMENT,
OFFICERS,
AND FEES.

Reply of
Rt. Hon.
Richard
Keatinge,
Judge of
Court of
Probate,
Ireland,
as to office
of Judge
of Courts
of Probate
and Ad-
miralty in
Ireland.

Letter to
Registrar
as to per-
formance
of duties
by deputy.

ESTABLISHMENT,
OFFICERS,
AND FEES.Answer of
Registrar
as to per-
formance
of duties
by deputy.

13.—ANSWER of REGISTRAR in reply to preceding Letter.

High Court of Admiralty, Dublin,
Four Courts.
(5, Lower Gloucester-street.)

SIR,—I beg to state that I do not discharge any part of my duties by deputy, in the strict sense of the word, as I have never executed a formal deputation to any one. Mr. Hamerton, now the Queen's Proctor, acts for me in the business of the registry, and any engagement between him and me is for the moment, and terminable at the wish of either party. I pay him by a proportion of the fees received, but this is altogether a private arrangement, which may at any moment be varied, and which I do not think I should be called on to state, but which, of course, if the Commissioners continue to wish it, I shall state.

There are portions of the business, such as preparing attested copies, taking down formal rules, &c., which must be done by a clerk, but all such parts of the business of the registry as a barrister could efficiently perform, I have at all times executed in person—as the taxation of costs, the examination of witnesses *in scriptis*, whether in town or under commissions to

the country—at one time this was a very considerable part of the business, and gave a very considerable part of the emoluments of the office—and any fees received for such services under commissions in the country did not come into account between me and my assistant, but were mine exclusively. A change in the practice of the Court has almost done away with examinations *in scriptis*, as cases are now generally heard, under consents of the proctors, *viva voce*, and a shorthand writer takes down the evidence, rendering the personal attendance of the Registrar unnecessary.

When I was first appointed I continued for some time to employ a gentleman of the name of Thomson, whom I found in the office. For the last twenty-five years Mr. Hamerton has acted for me. I felt it unnecessary and undesirable to make any change. Mr. Moore, a clerk of his, acts very much in the registry, and is a most intelligent and active assistant.

I have the honour to be,

Your faithful servant,

(Signed), J. ANSTER.

ESTABLISHMENT,
OFFICERS,
AND FEES.Answer of
Registrar
as to per-
formance
of duties
by deputy.

14. MEMORIAL of JOSEPH HAMILTON, Esq., REGISTRAR of HIGH COURT of DELEGATES, for Compensation on abolition of Admiralty Appeals to that Court.

To the RIGHT HONOURABLE and HONOURABLE the COMMISSIONERS appointed to INQUIRE into the CONSTITUTION, ESTABLISHMENT, PRACTICE, and PROCEDURE, AND FEES of the HIGH COURT of ADMIRALTY in IRELAND.

The MEMORIAL of Mr. JOSEPH HAMILTON, Registrar of Her Majesty's High Court of Appeals and Provo-cations Spiritual, commonly called the High Court of Delegates in Ireland.

Mr. Hamilton was appointed sole Registrar of the said Court, which is the ultimate Court of Appeal in Admiralty causes, by letters patent under the great seal of Ireland, bearing date the 11th day of September, 1821, 2nd George IV. "To have and to hold the said office, with all its fees, profits, and emoluments whatsoever, with power to appoint a deputy or deputies, with the consent and approbation of the Lord Lieutenant-General and General Governor of Ireland."

That the said letters patent were duly renewed to Mr. Hamilton on the accession to the throne of His late Majesty William IV., and also on the accession to the throne of Her Majesty Queen Victoria.

That there is no salary attached to the said office, the emoluments thereof arising from fees payable on the several proceedings had in the said Court.

That Mr. Hamilton has now held the said office, the

duties of which he has performed in person, for forty-two years and upwards.

That by the Act of the 23rd and 24th George III. (Irish), chapter 14, section 3rd, it was enacted that appeals from any interlocutory or final order of the Court of Admiralty were directed to be made to the King in his Court of Chancery, from whence a Commission of Delegacy issued to the said High Court of Delegates.

That a bill to alter and amend the practice of the Court of Admiralty (Ireland) was introduced last session of Parliament (1863), which was subsequently withdrawn, whereby it was provided to transfer the appeals from the Court of Admiralty to the Court of Appeal in Chancery in Ireland.

That Mr. Hamilton will be much injured and aggrieved by such transfer, inasmuch as he would be thereby deprived of the principal source of the emoluments of the said office, arising from the fees accruing from the cases of appeal above mentioned.

Mr. Hamilton begs leave to submit his claims for compensation, in the event of the transfer of the appellate jurisdiction of the Court of Admiralty to the Court of Appeal in Chancery, and respectfully requests the Right Honourable and Honourable the Commissioners will be pleased to take those claims into consideration.

Memorial
of Joseph
Hamilton,
Esq.,
Registrar
of High
Court of
Delegates,
for com-
pensation
on aboli-
tion of Ad-
miralty
Appeals.

APPENDIX D.—RETURNS AS TO AMOUNT OF BUSINESS OF COURT AND SECURITY OF MONEY OF SUITORS.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

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4. Return of Sums Paid otherwise than through the Registry,	64		

Proceed-
ings for
five years,
by Regis-
trar.

1.—RETURN of PROCEEDINGS in the HIGH COURT of ADMIRALTY of IRELAND, for each of the Five Proceedings for
Years ending 31st December, 1863, made by the Registrar.

Proceed-
ings for
five years,
by Regis-
trar.

[illegible]

Nature of Proceedings.	In Causes of Salvage.					In Causes of Damage by Collision.					In Causes of Bottomry.				
	1859.	1860.	1861.	1862.	1863.	1859.	1860.	1861.	1862.	1863.	1859.	1860.	1861.	1862.	1863.
Causes instituted during the year:—															
In rem,	.	.	.	.	18†	.	.	.	.	22†	.	.	.	.	2†
In personam,	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Total,	.	.	.	.	18	.	.	.	.	22	.	.	.	.	2
Appearances,	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Judgments and Decrees:—															
Final Judgments in contested causes, for Plaintiff, .	2	3	7	4	3	2	9	2	5	3	.	1	1	1	.
„ „ „ for Defendant, .	.	1	.	.	.	1	1	2	2	1	.	.	.	.	.
Decrees in causes by default,	.	.	.	.	.	1	.	.	.	.	2	3	1	1	.
Total,	2	4	7	4	3	4	10	4	7	4	2	4	2	2	.
Commissions of Appraisalment and Sale,	1	.	.	.	.	1	1	.	.	.	1	3	1	1	.

* The Court sittings commence each day at 11 o'clock, and continues until the business is disposed of. The sittings sometimes terminate at 1 o'clock, and sometimes have lasted till 7 o'clock.

1.—RETURN of PROCEEDINGS in the HIGH COURT of ADMIRALTY of IRELAND, for each of the Five Years ending 31st December, 1863, made by the Registrar—*continued*.RETURN
AS TO
BUSINESS
OF COURT,
&c.Proceed-
ings for
five years,
by Regis-
trar.RETURN
AS TO
BUSINESS
OF COURT,
&c.Proceed-
ings for
five years,
by Regis-
trar.

Nature of Proceedings.	In Causes of Necessaries.					In Causes of Wages.					In Causes of Possession.					In other Causes.				
	1859.	1860.	1861.	1862.	1863.	1859.	1860.	1861.	1862.	1863.	1859.	1860.	1861.	1862.	1863.	1859.	1860.	1861.	1862.	1863.
Causes instituted during the year:—																				
In rem,					5					5					2					1
In personam,																				
Total,					5					5					2					1
Appearances,																				
Judgments and Decrees:—																				
Final Judgments in con-																				
tested causes:—																				
For Plaintiff,			2	1		3	1	2	1	2					1					
For Defendant,				1		2	2	1	2	1						3				
Decrees in causes by default,	9	1				2	2	1	2	1						1		3		
Total,	9	1	2	2		7	5	4	5	4					1	4		3		
Commissions of Appraise-																				
ment and Sale,	1		1			2			2	1										

	£	s.	d.
Total Amount in which Causes were instituted, 1863:—			
In Causes of Salvage,	26,750	0	0*
In Causes of Damage by Collision,	4,049	0	0
In Causes of Bottomry,	2,412	0	0
In Causes of Necessaries,	1,709	0	0
In Causes of Wages,	253	13	6
In Causes of Possession,			
In other Causes,	345	0	0
Total,	35,518	0	0

Proceed-
ings of
Court in
1863, by
Marshal.

2. RETURN by MARSHAL of HIGH COURT of ADMIRALTY of IRELAND of Proceedings of Court, for Year 1863.

Proceed-
ings of
Court in
1863, by
Marshal.

High Court of Admiralty Ireland,

12th February, 1864.

years specified in the form, as I was not appointed to my office until March, 1862, and there are no records in my office anterior to that date.

SIR,—In accordance with your letter of the 27th ulto., I beg to return you the form therein enclosed, filled up as accurately as the information at my disposal enables me to do.

I am, Sir, your obedient servant,
(Signed), CLEMENT TAYLOR, Marshal.

I am unable to make any return for the first four W. Neilson Hancock, Esq., LL.D., &c.

Proceedings.	Totals.	In Causes of						In other Causes.
		Salvage.	Damage by Collision.	Bottomry.	Neces- saries.	Wages.	Possession.	
Instruments executed, viz.:—								
Warrants,	34	10	10	2	4	5	2	1
Monitions to bring in freight,								
Other Monitions,	2	1					1	
Attachments,								
Decrees of Possession,								
Commissions of Removal,	1	1						
Total,	37	12	10	2	4	5	3	1
Arrests made of Ships,	22		10		4	5	2	1
" of Ships and Cargoes,	6	4		2				
" of Cargoes,	6	6						
Total,	34	10	10	2	4	5	2	1
Appraisements of Ships,	1					1		
" of Cargoes,								
Total,	1					1		
Sales of Ships,	1					1		
" of Cargoes,								
Total,	1					1		
Releases executed,	34	10	10	2	4	5	2	1

Amount of Proceeds paid into the Registry, 1863:—
Wages, 370 2 7

* This sum is in respect of four cases only—in fourteen, the Warrants issued marked for "Salvage" only, without specifying any sum.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

3.—HIGH COURT OF ADMIRALTY.—Return of Balances of Suitors and other Moneys in hand at the beginning and end of each of the Five Years ending 31st of December, 1863, and total of Amounts received and paid during each period, made by Registrar.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

Balances
of Suitors
for five
years, by
Registrar.

	1859.	1860.	1861.	1862.	1863.
Received during the Year:—	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Proceeds of Ships and Cargoes and Freight paid in,	4,817 14 1	5,187 11 9	1,810 0 0	2,620 0 1	405 0 0
Tenders for Salvage, &c.,	42 13 6	295 0 0	241 12 6	352 9 4	713 0 0
Deposits in lieu of Bail,	60 0 0	50 0 0	60 0 0	5,750 0 0	75 0 0
Droits of Admiralty and Crown,	—	—	—	—	—
Received on account of Amount voted by Par- liament for Salaries and other expenses,	—	—	—	—	—
Other Receipts—sums paid in under Decrees,	42 0 0	900 0 0	775 0 0	—	—
Total,	4,962 7 7	6,432 11 9	2,886 12 6	8,722 9 5	1,193 0 0
Paid during the Year:—					
To Salvors,	1,084 0 0	1,080 0 0	886 10 0	3,150 0 0	713 0 0
For damage by Collision,	286 2 5	853 19 9	—	50 0 0	—
To Bottomry Bondholders,	200 7 11	1,704 11 9	91 8 9	1,602 6 4	—
For necessities supplied to Foreign and Home Ships,	456 18 5	298 11 0	733 17 0	225 8 5	—
To Seamen for Wages,	106 2 10	1,070 19 3	507 1 7	499 18 7	70 13 6
For Pilotage,	4 16 0	—	—	—	—
To Proctors for Costs,	452 17 2	353 19 4	390 11 10	183 18 10	39 2 7
For charges and disbursements for Dock dues, Brokerage, &c., on ships and goods sold by order of the Court, including Marshal's Fees of Sale, &c.,	343 1 4	553 13 9	172 1 0	182 19 1	34 17 5
To Mortgagees,	—	—	—	—	—
To Owners claiming balance after payment of other claims,	1,488 15 11	348 8 0	42 19 10	—	185 15 6
Repayment of Tenders,	—	—	—	—	—
Deposits in lieu of Bail,	57 0 0	—	—	2,750 0 0	71 5 0
Droits of Admiralty and of the Crown,	—	—	—	—	—
Other Payments,	427 15 8	168 8 11	62 2 6	77 18 2	16 7 6
Remaining to the credit of the Registrar's Ac- count,	54 9 11	—	—	—	61 18 6
Total,	4,962 7 7	6,432 11 9	2,886 12 6	8,722 9 5	1,193 0 0

Balances
of Suitors
for five
years, by
Registrar.

Sums
ordered to
be paid
for five
years, by
Registrar.

4.—A RETURN of SUMS ordered to be paid in the HIGH COURT of ADMIRALTY of IRELAND, for each of the Five Years ended 31st December, 1863, made by the Registrar.

Sums
ordered to
be paid
for five
years, by
Registrar.

	1859.	1860.	1861.	1862.	1863.
Total sums ordered to be paid by Decrees or Judgments of the Court,	£ s. d. 7,246 0 0	£ s. d. 9,845 0 0	£ s. d. 4,621 0 0	£ s. d. 13,377 0 0	£ s. d. 3,301 0 0
Amount thereof paid through Registry, as per Return already made,	4,908 0 0	6,432 0 0	2,886 0 0	8,722 0 0	1,193 0 0
Sums ordered to be paid in any other manner than through the Registry,	2,338 0 0	3,413 0 0	1,735 0 0	4,655 0 0	2,108 0 0

Applica-
tion for
Return as
to Cash
and Secu-
rities
belonging
to Suitors,
&c.

5. APPLICATION for Return from the REGISTRAR of the HIGH COURT of ADMIRALTY of IRELAND, as to Cash and Securities belonging to Suitors, &c.

High Court of Admiralty
(Ireland) Commission, Four Courts, Dublin,
December, 1863.

SIR—We are directed by Her Majesty's Commis-
sioners for inquiring into the High Court of Admiralty
of Ireland to request that you will furnish the Com-
missioners on or before the . . . day of . . .
with a return showing the amount of the cash,
government stock, and securities, belonging to Suitors
of the High Court of Admiralty of Ireland, with the
name of the case in which such cash, government
stock, and securities, have been invested or lodged,
and how the same is now invested or secured for the
Suitors; and also a Return of the amount of cash and
securities invested or paid into Court within the
twelve months ending the 1st of November, 1863,

and the amount paid out in the same period, specifi-
ing the causes or matters in which such payments
were made.

The Commissioners also request that you will state
whether you hold any other cash or securities in your
official capacity as Registrar of the High Court of
Admiralty of Ireland, and if so, for what purpose such
cash or securities are held, the amount thereof, and
how the same are invested or secured.

Your obedient servants,

(Signed), W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON,
Secretaries.

John Anster, Esq., LL.D.,
Registrar.

Applica-
tion for
Return as
to Cash
and Secu-
rities
belonging
to Suitors,
&c.

Reply of
John
Anster,
esq.,
LL.D., as
to Cash
and Secu-
rities of
Suitors,
&c.

6. REPLY of JOHN ANSTER, Esq., LL.D., REGISTRAR, with Returns as to Cash and Securities of Suitors, &c.

Dublin, 5, Lower Gloucester-street,
31st December, 1863.

GENTLEMEN—In reply to your letter, dated Decem-
ber, 1863, requesting me to furnish the Commis-
sioners for inquiring into the High Court of Admiralty,
Ireland, a return showing the amount of cash, go-

vernment stock, and securities, belonging to Suitors
of the High Court of Admiralty, Ireland, with the
names of the causes in which such cash, government
stock, and securities, have been invested or lodged,
and how the same are now invested or secured for the
Suitors,—I beg leave to state, that there is no cash

Reply of
John
Anster,
esq.,
LL.D., as
to Cash
and Secu-
rities of
Suitors,
&c.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

Reply of
John
Anster,
Esq.,
LL.D., as
to Cash
and Secu-
rities of
Suitors,
&c.

or government stock belonging to Suitors of the Court of Admiralty, Ireland.

The practice of the Court is, that any money coming into Court is paid to the Registrar, who is the sole depository of such money which he holds for those having right to the same, subject to such orders of the Judge as may be made from day to day for its distribution and payment.

There are few cases in which money paid into Registry can be described as the exclusive property of the Suitors. There are but three ways in which money comes into Registry. Money is paid into the Registry as the proceeds of the sale of a ship or cargo ordered by the Court to be sold, or as a tender to stop a suit in its inception, or occasionally, though very unfrequently, as a security for costs; and is always subject to the claims for costs of the Proctors employed, with respect to whose rights orders of the Court may from time to time be made in the progress of a cause. What properly belongs to the Suitor is the balance after such claims are adjusted.

I beg to state that the only cases previous to

November, 1862, in which I hold any moneys in my official capacity as Registrar of the High Court of Admiralty, are the "William," in which a sum of £50 15s. 8d., balance of a sum of £683 13s. 1d., the proceeds of sale of said ship in 1854, still remains in Registry unclaimed; and the "Golden Eagle," in which a sum of £54 9s. 4d., balance of a sum of £500, proceeds of the sale of said ship in 1859, still remains unclaimed in Registry.

I send the return you call for of causes from 1st November, 1862, to 1st November, 1863, in which money was paid into Court, and the dates at which it was paid in, and those at which it was paid out.

Your obedient servant,

(Signed), JOHN ANSTER, Registrar,
High Court of Admiralty, Ireland.

To W. Neilson Hancock, Esq., and
H. R. Vaughan Johnson, Esq.,
Secretaries,

High Court of Admiralty (Ireland)
Commission, Four Courts.

RETURN
AS TO
BUSINESS
OF COURT,
&c.

Reply of
John
Anster,
Esq.,
LL.D., as
to Cash
and Secu-
rities of
Suitors,
&c.

Return of
Moneys
paid into
Registry,
1862-63.

RETURN showing MONEYS paid into REGISTRY of HIGH COURT of ADMIRALTY in IRELAND, from 1st November, 1862, to 1st November, 1863, and how disposed of.

Return of
Moneys
paid into
Registry,
1862-63.

The "Himalaya" against the "Duchess of Leinster."

1862,		£	s.	d.
Dec. 29.	To amount tendered this day,	50	0	0
	„ poundage thereon,	2	10	0
		£52	10	0

1862,		£	s.	d.
Dec. 29.	By Registrar's poundage,	2	10	0
1863,				
Jan. 26.	„ paid Lee, pursuant to order,	50	0	0
		£52	10	0

Sheridan and others against the "Ambassador of Dundee."

1863,		£	s.	d.
Jan. 16.	To amount tendered,	40	0	0
	„ poundage,	2	0	0
		£42	0	0

1863,		£	s.	d.
Jan. 16.	By Registrar's poundage,	2	0	0
Feb. 14.	„ paid Hamerton, pursuant to order,	40	0	0
		£42	0	0

Carvill and others against the "Mystery."

1863,		£	s.	d.
Jan. 26.	To amount tendered,	13	0	0
	„ poundage thereon,	0	13	0
		£13	13	0

1863,		£	s.	d.
Jan. 26.	By poundage,	0	13	0
	„ paid Hamerton, pursuant to order,	13	0	0
		£13	13	0

Edwards and others against the "Earl of Derby" and cargo.

1863,		£	s.	d.
Feb. 23.	To amount tendered,	50	0	0
	„ amount poundage,	2	10	0
		£52	10	0

1863,		£	s.	d.
Feb. 23.	By Registrar's poundage,	2	10	0
July 25.	„ paid Hamerton, pursuant to order,	50	0	0
		£52	10	0

O'Donnell and others against the "Earl of Derby" and cargo.

1863,		£	s.	d.
Feb. 23.	To amount tendered,	150	0	0
	„ poundage,	6	5	0
		£156	5	0

1863,		£	s.	d.
Feb. 23.	By Registrar's poundage,	6	5	0
	„ paid Hamerton, pursuant to order,	150	0	0
		£156	5	0

The Party of the "Arbutus" s.s. against the "Earl of Derby" and cargo.

1863,		£	s.	d.
March 13.	To amount tendered,	50	0	0
	„ poundage,	2	10	0
		£52	10	0

1863,		£	s.	d.
March 13.	By Registrar's poundage,	2	10	0
July 15.	„ paid Hamerton, pursuant to order,	50	0	0
		£52	10	0

Tucker and Davis against the brigantine "Sardine."

1863,		£	s.	d.
March 14.	To proceeds, sale of the "Sardine,"	405	0	0
		£405	0	0
Nov. 1.	To balance carried down, remaining in Registry,	61	18	6

1863,		£	s.	d.
March 14.	By Registrar's poundage,	12	12	6
	„ paid Marshal's bill, fees and expenses,	34	17	5
	„ paid Seamen their decree,	70	13	6
	„ paid Richardson his taxed costs,	39	2	7
June 12.	„ paid Richardson, for Mr. Proctor, pursuant to order,	185	15	6
Nov. 1.	„ balance carried down,	61	18	6
		£405	0	0

J. A. Bruce against the "Duntroon Castle."

1863,		£	s.	d.
July 8.	To amount lodged as security for costs,	75	0	0
		£75	0	0

1863,		£	s.	d.
July 8.	By Registrar's poundage,	3	15	0
August.	„ paid balance lodged to Hamerton, pursuant to order,	71	5	0
		£75	0	0

RETURN AS TO BUSINESS OF COURT, &c.				Strangman Allen and others <i>against</i> "Cotton Derelict."				RETURN AS TO BUSINESS OF COURT, &c.			
1863,				1863,				1863,			
June 22. To amount tendered,				June 22. By Registrar's poundage,				June 22. By Registrar's poundage,			
" Registrar's poundage,				" paid amount tendered to Hamerton,				" paid amount tendered to Hamerton,			
								pursuant to order,			

ABOLITION OF PROCTORS' PRIVILEGE.

Reply of Proctors to Circular as to abolition of Privilege.

pose. If this is not done directly by the suitor, it is done by his solicitor or attorney; and it may be safely stated that four-fifths of the business of the Court comes from solicitors in the outports, who, no doubt, when they find the Court opened to them, will transact their own business in the Court of Admiralty, either personally or by their town agents (as they do now in the Court of Probate), and thereby the practice will be swept away from the present Proctors, with whom even the Admiralty business of the port of Dublin will not long remain, as the merchants, ship-owners, and steam companies in that city will naturally prefer having their own solicitors to act for them in the Court of Admiralty.

The present Proctors of the Court of Admiralty are but five in number, and they submit that the same measure of justice should be done to them as has been done to the Proctors of the Courts of Prerogative in England and Ireland; and they further submit that a clause should be introduced into any Bill for the regulation of the Irish Court of Admiralty similar to that in the Act regulating the Court of Probate (Ireland), 20 & 21 Vict., cap. 79, sec. 112, whereby com-

pensation was provided of an amount equal in value to one-half of the net profits derived by the Proctors in respect of matters and causes done in that Court, upon an average of five years immediately preceding the commencement of the Act.

In conclusion, we respectfully submit that no sufficient reason can be urged to justify a departure from the precedent made in favour of the English Proctors, and followed in the case of the late Court of Prerogative in Ireland.

We have the honour to remain,
Your obedient servants,

(Signed,) MATTHEW ANDERSON,
JOHN T. HAMERTON, *Queen's Proctor*.
JOS. HENRY DORAN.
ROBERT C. LEE.
WILLIAM RICHARDSON.

To W. Neilson Hancock, Esq., and
H. R. Vaughan Johnson, Esq.,
Secretaries,
High Court of Admiralty (Ireland)
Commission, Four Courts, Dublin.

ABOLITION OF PROCTORS' PRIVILEGE.

Reply of Proctors to Circular as to abolition of Privilege.

Circular to Proctors as to Amount of their Claims.

3. CIRCULAR addressed to the PROCTORS of the HIGH COURT of ADMIRALTY in IRELAND, respecting the AMOUNT of their CLAIMS.

High Court of Admiralty (Ireland) Commission,
6, Adelphi-terrace, London,

SIR, 7th April, 1864.

Referring to your letter of the 18th of December last, submitting that a clause should be introduced into any Bill for the regulation of the Irish Court of Admiralty similar to that contained in the Act regulating the Court of Probate (Ireland) 20 and 21 Vic., cap. 79, sec. 112, with regard to compensation, we are directed by her Majesty's Commissioners for inquiring into the High Court of Admiralty in Ireland to request you to inform us, by letter, addressed to us

as above, on or before Monday next, what, assuming the rule of compensation referred to in your letter to be adopted, would be the amount of one-half of the net profits derived by you from the transaction of business done by you in matters and causes in the High Court of Admiralty in Ireland upon an average of five years immediately preceding the 1st of April last.

We are, sir, your obedient servants,

(Signed,) W. NEILSON HANCOCK,
H. R. VAUGHAN JOHNSON,
Secretaries.

Circular to Proctors as to Amount of their Claims.

Reply of Messrs. Anderson and Lee.

4.—I. REPLY of MESSRS. ANDERSON and LEE to preceding Circular.

Office of Crown Solicitor for Dublin,
No. 2, Inns-quay,
9th day of April, 1864.

GENTLEMEN,—In reply to your letter of 7th inst., we beg to say that we cannot with accuracy give you in the short time named by you the average for five years of the net profits of our business as Proctors of Admiralty, but we estimate that £350 would be the utmost amount we could claim as a moiety or half of

such profits for the five years preceding the first of April instant.

Being partners, we reply to your letter jointly.

We are, gentlemen, your obedient servants,

(Signed,) MATTHEW ANDERSON.
ROBERT C. LEE.

W. Neilson Hancock, and
H. R. Vaughan Johnson, Esqrs.

Reply of Messrs. Anderson and Lee.

Reply of Joseph Henry Doran, Esq.

4.—II. REPLY of JOSEPH HENRY DORAN, Esq., to preceding Circular.

Chambers, 5, St. Andrew's-street,
Dublin, 11th April, 1864.

GENTLEMEN,—I am in receipt of yours of the 7th instant, on the 8th, to return to you the profits made by me as a Proctor of the High Court of Admiralty of Ireland for five years preceding 1st April instant. As the return was directed to be made on this day, the time for so doing was very short to go over my books for such period, being only two clear days (as Sunday intervened), I therefore cannot be as accurate as if I had more time to have done so; but having gone through them with as much attention as the time afforded, I find the net profits for the last five years to be as follows, and in the following years:—

	£	s.	d.
For the year 1859, }			
April to 1860, }	231	2	11
1861, }	230	12	10

	£	s.	d.
For the year 1862,	399	16	10
1863 & 1864,	423	6	4
Total	1,284	18	11

The half of this on an average is upwards of £128 per annum, and I consider in making the above return I am rather under the amount for which I seek compensation, in the event of the Court being open to the whole profession of attorneys, solicitors, &c., &c.

I am, gentlemen, your obedient servant,
(Signed,) JOSEPH HENRY DORAN.

To W. N. Hancock, and
H. R. Vaughan Johnson, Esqrs.,
Secretaries to the High Court of Admiralty
Commission, 6, Adelphi-terrace, London.

Reply of Joseph Henry Doran, Esq.

ABOLITION OF PROCTORS' PRIVILEGE.

Reply of John Taylor Hamerton, Esq., Queen's Proctor.

4.—III. REPLY of JOHN TAYLOR HAMERTON, Esq., QUEEN'S PROCTOR, to preceding Circular.

61, Upper Sackville-street, Dublin,
9th April, 1864.

GENTLEMEN,—I am in receipt of your letter of the 7th instant, and for the information of Her Majesty's Commissioners for inquiring into the High Court of Admiralty in Ireland, beg to say, that the amount of the one-half of the net profits derived by me from the transaction of business done by me in matters and causes in the High Court of Admiralty of Ireland, upon an average of five years, ending the 1st day of April last, amount to the sum of £665 19s. 9d., as by the account on the other side.

I may add that I have had for many years the largest practice in the Court of Admiralty, and have, for the last five years, paid nearly a moiety of the entire of the Judge's and Registrar's fees.

Your obedient servant,
(Signed), JOHN T. HAMERTON.
W. N. Hancock, Esq., and
H. R. Vaughan Johnson, Esq., London.

Return showing the amount of one-half the net profit derived by my practice from the transaction of business done by me in matters and causes in the High Court of Admiralty in Ireland, upon an average of five years preceding the 1st of April, 1864:—

	£	s.	d.	
April 1, 1859, to April 1, 1860, net receipts,	1,044	8	9	
„ 1860, to „ 1861, „	1,472	19	2	
„ 1861, to „ 1862, „	1,200	5	11	
„ 1862, to „ 1863, „	1,242	6	3	
„ 1863, to „ 1864, „	1,699	17	8	
	} 6,659			17 9
	2)			1,331 19 6

Average of one-half net profits, . . . 665 19 9
(Signed), JOHN T. HAMERTON.
9th April, 1864.

ABOLITION OF PROCTORS' PRIVILEGE.

Reply of John Taylor Hamerton, Esq., Queen's Proctor.

Reply of William Richardson, Esq.

4.—IV. REPLY of WILLIAM RICHARDSON, Esq., to preceding Circular.

Newry, April 9, 1864.

SIRS,—I am in receipt of a telegram here from my office, stating that during my absence in Glasgow (where I have been sitting as an arbitrator for a Steam Ship Company in a cause of collision, incident to an Admiralty warrant which I had issued in Ireland) a communication has been received from you, requiring me, on or before *Monday next*, to state what would be my claim for compensation, supposing a clause should be inserted for the protection of practitioners in the contemplated Admiralty Bill, similar to that which was contained in the late Probate Act for Ireland.

I beg to state in reply that I have continued to conduct the business of my late father, who was King's Proctor for Ireland, and who signed the Admiralty Roll of Proctors in 1796, that I believe I have had the

largest amount of Admiralty business in Ireland, and that the net amount of one-half of my annual income from such business during the last five years, terminating on the 1st April instant, would amount as nearly as possible to £600 per annum, for which amount of annuity I would be willing to compound any claim which the Admiralty Commissioners might be pleased to consider I possessed as a Practitioner of the Court of Admiralty.

I have the honour to be, sirs,
Your most obedient servant,
(Signed), WILLIAM RICHARDSON.

To the Secretaries of
The Admiralty Commission, Ireland,
London.

Reply of William Richardson, Esq.

Names of Apprentices to Proctors.

5. A RETURN showing the Number and names of APPRENTICES in the HIGH COURT OF ADMIRALTY of IRELAND, with other particulars, made by the Registrar.

Names of Apprentices to Proctors.

No.	Name of Apprentice.	Date of Order Granting Permission to be Articled.	Date of Indentures.	Date of Registering Same.	Amount of Stamp Duty.	Period of Service Required by the Court.
1	William Russell Kelly,	29 Aug. 1859	3 Sept. 1859	5 Sept. 1859	£ 80 s. 5 d. 0	5 years.
2	Charles Taylor,	10 July, 1862	6 Aug. 1862	11 Aug. 1862	60 5 0	„
3	John Chambers Hamerton,	2 Nov. 1863	7 Nov. 1863	9 Nov. 1863	80 5 0	„
4	Henry Albert Lee,	1 Feb. 1864	17 Feb. 1864	17 Feb. 1864	80 5 0	„

EXTENSION OF ADMIRALTY JURISDICTION.

APPENDIX F.—COMMUNICATIONS AS TO EXTENSION OF JURISDICTION OF HIGH COURT OF ADMIRALTY IN IRELAND.

EXTENSION OF ADMIRALTY JURISDICTION.

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1. LETTER from LE CHEVALIER AUGUSTUS CÆSAR MARANI, Consul of Italy in Ireland, to the Secretary of the Commission.

Dublin, 7th December, 1863.

MY DEAR SIR,—I have the honour to forward you the letters I have received from the Consuls of Austria, Prussia, the Brazils, Sweden and Norway, in connexion with the necessity of creating in Dublin a Court of Justice, by which matters in dispute between captains of foreign vessels and the corn merchants in Ireland, could be promptly and cheaply decided, without entailing very heavy expenses in obtaining speedy justice.

I am now gathering from my consular agents all through Ireland information on many cases in which Italian shipmasters were obliged to leave Ireland without having been able to obtain from the corn merchants the fulfilment of conditions expressed in their charter-parties, and I will communicate to you the result of my inquiry as soon as it shall be completed.

It may not be irrelevant to inform you that Mr. Charles Haliday, Consul for Greece in Ireland, has promised me his co-operation in my endeavours to call the attention of your Commission to the necessity of providing some means by which many abuses now inveterate, and exceedingly detrimental to the commercial interests both of Ireland and the nations trading with it, should be immediately suppressed by the institution of a proper tribunal.

I have the honour to remain,

My dear Sir, yours very truly,
(Signed), A. C. MARANI,

Consul for Italy in Ireland.

To W. Neilson Hancock, Esq., LL.D.,
Secretary to the Commission
now sitting on the Admiralty Court.

2.—ENCLOSURES in LETTER of CONSUL of ITALY.

I.—LETTER of VICE-CONSUL of AUSTRIA in Dublin to CONSUL of ITALY in Ireland.

Imperial and Royal Austrian Vice-Consulate,
Dublin, 4th November, 1863.

DEAR SIR,—I am favoured by your letter of 3rd instant, and perfectly coincide with your idea that there is now a good opportunity for the Foreign Consuls to lay before the Commission appointed by Government for the purpose of amending the laws and regulations of the Admiralty Court of Ireland, a full and fair representation of the very great difficulties and wrongs to which foreign captains and shipowners are subject, in consequence of having no legal tribunal open, except at certain periods, and thus, in the interval, precluding them from claiming by law their just demands.

My idea is, that a clear and concise representation of the

necessity for a tribunal that shall be at all times available for the decision of maritime questions (say particularly those relating to freight and demurrage), should be drawn up, and being signed by as many of the Foreign Consuls as possible, should be presented to the Commission.

If you approve of this plan or suggest any other, rely upon my fullest co-operation, and

Believe me, dear Sir, your obedient servant,

(Signed), RICHARD WELCH,
Vice-Consul for Austria in Dublin.

Signor A. C. Marani, Consul
for Italy in Ireland.

2.—II. LETTER of VICE-CONSUL of SWEDEN and NORWAY in Dublin to CONSUL of ITALY in Ireland.

Royal Swedish and Norwegian Vice-Consulate,
31, Eden-quay, Dublin,
4th November, 1863.

DEAR SIR,—I beg to own the receipt of your esteemed letter of this date, and have much pleasure, by the present, of fully endorsing your views as expressed therein, relative to the great advantage our local commerce would derive by the establishment of a tribunal of commerce in this city, where differences between foreign masters and their merchants might be disposed of without having recourse to the present expensive and

very tedious process of law proceedings. I would, indeed, be most happy to co-operate in any movement that would have for its object so vital and essentially necessary an undertaking; and praying that you might rely upon my best support in the matter,

I have the honour to remain, dear Sir,

Your very obedient servant,
(Signed), WM. SCOTT.

A. C. Marani, Esq.,
Consul for Italy.

2.—III. LETTER of VICE-CONSUL of PRUSSIA in Dublin to CONSUL of ITALY in Ireland.

Vice-Consulate for Prussia, North Wall, Dublin,
16th November, 1863.

DEAR SIR,—I am favoured with yours of the 14th instant, and will be happy to co-operate with you if any means can be suggested to enable captains of foreign ships to have a more speedy and cheap means of settling their disputes with merchants.

I will be happy to have a conference with you should you think it desirable.

I am yours truly,

(Signed), RICHARD MARTIN.

A. C. Marani, Esq.,
Consul for Italy.

2.—IV. LETTER of BRAZILIAN CONSUL in Ireland to CONSUL of ITALY in Ireland.

Imperial Brazilian Consulate, 62, Abbey-street,
Dublin, 5th December, 1863.

SIR,—I shall be most happy to join you in representing to the Committee, now sitting for the better administration of justice in the Admiralty Court, the necessity of removing the differences constantly occurring between the corn merchants of this city and the captains of foreign vessels, on the subject of demurrage and deductions of freight, and you are

at liberty to make use of this communication in any way you may think proper.

I have the honour to be, Sir, your obedient servant,

(Signed), THOMAS SNOW,
Vice-Consul for the Brazils, Mexico, New
Granada, and Liberia.

To II. Signor Marani, Consul
for Italy, &c., Dublin.

3. LETTER from LE CHEVALIER AUGUSTUS CÆSAR MARANI, Consul of Italy in Ireland, to the Secretary of the Commission.

Dublin, 11th December, 1863.

MY DEAR SIR,—By the enclosed accurate account, you will see at once the number of Italian ships that put into Irish ports in 1863, and their tonnage as per register.

I must remark here that in Dublin, Newry, Bel-

fast, Waterford, and Limerick, in many instances, captains were obliged to relinquish their just claims, preferring to lose, in some cases, very large sums of money, rather than go to law, knowing the time they would have lost waiting for the opening of the Courts.

It is a well known fact, that sixteen or seventeen

EXTENSION OF ADMIRALTY JURISDICTION.

Letter from Le Chevalier A. C. Marani, Consul of Italy.

EXTENSION OF ADMIRALTY JURISDICTION.

Letter from Le Chevalier A. C. Marani, Consul of Italy.

Richard Welch, Esq., Vice-Consul, Austria.

Richard Welch, Esq., Vice-Consul, Austria.

William Scott, Esq., Vice-Consul, Sweden and Norway.

William Scott, Esq., Vice-Consul, Sweden and Norway.

Richard Martin, Esq., Vice-Consul, Prussia.

Richard Martin, Esq., Vice-Consul, Prussia.

Thomas Snow, Esq., Vice-Consul, Brazils, &c.

Thomas Snow, Esq., Vice-Consul, Brazils, &c.

Le Chevalier A. C. Marani, Consul of Italy.

Le Chevalier A. C. Marani, Consul of Italy.

EXTENSION OF ADMIRALTY JURISDICTION.

Le Chevalier A. C. Marani, Consul of Italy.

ships would have unloaded in Dublin, had not the captains preferred losing so much on their freight, rather than have anything to do with Dublin merchants, and they obtained leave to unload either at Falmouth or Cardiff, with a heavy loss to the poor journeymen, who would have earned some money, had the captains been able to fulfil their engagements according to their charter-parties.

Taking all these matters into consideration, I think it becomes most imperative for the development of Italian trade, as well as for the industrial and commercial

interests of this island that immediate measures should be taken by the British Government to put a stop to shameful abuses by which foreign trade and native interests are seriously endangered.

I have the honour to remain,

My dear Sir,

Yours very truly,

(Signed)

A. C. MARANI.

To W. Neilson Hancock, Esq., LL.D.

EXTENSION OF ADMIRALTY JURISDICTION.

Le Chevalier A. C. Marani, Consul of Italy.

4. RETURN of ITALIAN SHIPS that visited the principal PORTS of IRELAND in 1863, enclosed in preceding.

Return of Italian ships visiting Ireland in 1863.

Return of Italian ships visiting Ireland in 1863.

Seaports under the Consular Jurisdiction.	First Quarter.		Second Quarter.		Third Quarter.		Fourth Quarter.		Total Number Ships.	Total of Registered Tonnage.
	Number of Ships.	Tonnage.	Number of Ships.	Tonnage.	Number of Ships.	Tonnage.	Number of Ships.	Tonnage.		
Dublin,	3	1,343	1	275	22	7,612	9	2,397	35	11,627
Belfast, including Larne,	5	1,858			17	5,474	7	2,301	29	9,633
Cork, including Queenstown,	17	6,022	34	10,628	232	76,600	49	15,046	332	108,296
Drogheda,					3	644	1	370	4	1,014
Galway,	1	444	2	664	18	5,520	3	1,100	24	7,728
Limerick,	1	438	2	592	6	1,932	3	1,006	12	3,968
Londonderry,					6	1,498	2	446	8	1,944
Newry,					5	1,112			5	1,112
Sligo,					8	4,116	1	157	9	4,273
Tralee,	5	976	5	1,599	50	15,815	5	1,809	65	20,199
Waterford, including New Ross,			1	254	3	776	1	230	5	1,260
Westport, including Newport,										
Wexford,										
Total,	32	11,081	45	14,012	370	121,099	81	24,862	528	171,054

In 1862 the total number of Italian ships that visited Ireland was 239; scarcely was there a captain justly treated by the corn merchants. Drogheda, Galway, Sligo, Westport, Tralee, and Wexford had no Consular Delegate from Italy up to June last. Nine cases were settled with great loss of time and money to the captains. In Dublin many vessels would have entered the port, but preferred to unload in England, losing sixpence per quarter freight on cargo.

5. LETTER from CHARLES HALIDAY, Esq., Consul of Greece in Ireland, to Secretary of the Commission.

Consulat de Sa Majesté Hellénique à Dublin,
13, West Arran-street,
20th January, 1864.

Charles Haliday, Esq., Consul of Greece.

SIR,—Permit me, through you, to solicit attention from the Commissioners on Admiralty Jurisdiction to a grievance strongly felt by the masters and owners of foreign vessels trading to Ireland. Formerly the number of such vessels was small, and few cases arose in which any dispute was not amicably settled. But since the repeal of the Corn and Navigation Laws a very large number of foreign vessels enter Irish ports laden with grain, &c., and they have all charter-parties stipulating for the discharge of the cargo within a specified number of days, and in default, for the payment of "demurrage." This is a source of frequent dispute, merchants refusing to pay demurrage, or refusing to pay the amount claimed; and if this occur between July and November, when the Law Courts are not sitting, the master or owner of the vessel has no means of enforcing his demand. It is believed that cases have occurred in which the captain of a vessel having, at great inconvenience and loss, remained in port, with his ship and crew, to await the sitting of the Judges, has found, at the last hour, that the sum he claimed, and to which no valid objection could be opposed, had been paid into Court, the interest on the sum claimed, for the time it was withheld, being more than the small costs to which the merchant was subjected by this unjustifiable proceeding.

This grievance is most strongly felt by foreigners, because the merchant has it in his power to sue the foreigner in the Irish Admiralty Court, and have his vessel detained for any alleged breach of contract, the foreigner having no such summary remedy for any breach of contract by the merchant.

There is in Dublin an Arbitration Society, termed the "Ouzel Galley," and having for its object the settlement, by arbitration, of disputed claims; but as no person can be compelled to submit his claim to arbitration, merchants have refused to submit to the decision of this tribunal, or to submit to any arbitration except by persons of their own nomination. Under such circumstances it has been suggested that the Admiralty Court in Ireland should be empowered to decide on claims for freight, demurrage, &c.

It is understood that the Court of Admiralty in England has power, in some cases, to summon a jury. And it is further suggested, that the Irish Court of Admiralty should be authorized to summon a jury to decide on disputes respecting shipping; and that from their decision, under a specified sum, there should be no appeal. This would greatly mitigate the evil; as, the Admiralty Court having no vacation, no considerable delay could arise from trials there.

I am, Sir,

Your obedient servant,

(Signed),

CHARLES HALIDAY, Consul.

To Neilson Hancock, Esq., LL.D.

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List of
Admirals
from 8
Henry III.
to James I.

- 1.—LIST OF ADMIRALS from 8 Henry III. to James I., as set forth in the Glossarium of Henry Spelman, published in 1687, showing there also were Admirals of parts of England, of all England, and of England and Ireland, &c.

List of
Admirals
from 8
Henry III.
to James I.

¶ Admiraliurum series, tam particularium quàm universalium
qui ab exordio hujus muneris in
Anglia floruit.

Marthusium Archipiratam (id est, Principem nautarum) tempore Edgari Regis Anglo-Saxonis: aut Tetrarchas classicos ejusdem Regis (quorum singuli, mille navibus ad custodiam singularum plagarum Britannici Maris, dicuntur præpositi) huic catalogo non ascribimus. Nec quos succedentes Reges, navium Prætores extraordinarios habuere: sed hos tantum qui præfecturâ Maris, postquam erecta esset in munus annuum atque ordinarium, donabantur. Quod quidem licet decursu temporis, in eam excreverit amplitudinem, ut à maximis Regni Principibus avidè ambiretur: in exordio tamen, aded humile visum est & operosum, ut viris mediocri fortune, immò obscuris sæpè, conferretur.

Seriem verb hanc, tibi (Lector) offero: non ut integram; aut nostrâ operâ, ab Archivis Regiis petitam; sed quam (paucis interjectis) ex diversorum collectionibus (mutilis quidè & malè sanis) concinnavimus. Cujus te admonitum velim: ut nobis non veritas vitio, si in quò erratum fuerit. Facile enim est recolere; laboriosum condere. Ad hoc autem sufficiat, ut intelligas prisce seculi consuetudinem, quæ (Romanam sequuta prudentiam) summa munera Reipub. noluit esse aut diuturna, aut singulari integrè delegata.

- 8 Hen. 3. Richardus de Lucy dicitur habere maritimam Angliæ. Patentt. An. 8 Hen. 3. Membr. 4. 29 August.
48 Hen. 3. Thomas de Moleton Capitaneus & custos Maris & portuum maritimarum constitutus, 3 Junii, 48 Hen. 3.
15 Ed. 1. Willielmus de Leiburne appellatur Admirallus Maris Regis in Conventu apud Bruges, 8 Martii, 15 Edw. 1, 1286.

	BOREALIS.	MERIDIONALIS.	OCCIDENTALIS.
22 Ed. 1. Jo. de Botetort Gernemuthensium & illius Stationis Admirallus.	Will. de Leiburne Portes-muthensium & illius stationis Admirallus.	Miles quidam Hibernicus Occidentium & illius stationis Admirallus.	

ADMIRALLI BOREALES.

ADMIRALLI OCCIDENTALES.

i. Ab ore aquæ Thamesis versus partes boreales.

i. Ab ore aquæ Thamesis versus partes occidentales.

- 34 Ed. 1. Edward. Charles Borealis Admirallus.
8 Ed. 2. Johannes Botetort constitut. Admirallus borealis 5 Martii.
10 Ed. 2. John Perbrun alias Perburn, Burgensis magnæ Jernemuthæ constit. 13 Maii.
10 Ed. 2. Johannes Perburn.
12 Ed. 2.
15 Ed. 2.
16 Ed. 2. Johannes Perburn Burgensis magnæ Jernemuthæ, borealis Admiral. constitut. 16 Maii.
18 Ed. 2. Johan. Sturmy constitut. 15 Aug. al. 5.
Gervasius Allard Occidentalis Admirallus.
Willielmus Cranis constitut. Admirallus occidentalis 9 Maii.
Nicholaus Cryoll constitut. 8 Dec.
Robertus Leiburne Eques aur. constitut. 13 Maii.
Joh. Athey occid. Admir.
Rob. de Leiburne Eq. aur. constitut. Admiral. occidentalis Portus Angliæ, Walliæ, & Hiberniæ, 19 Maii.
Rob. Battail, al. Batallus, unus Baronum 5. Portuum const. Adm. ab ore aquæ Thamesis versus partes occid. 18 Apr.
Robertus Bendon constitut. Adm. 5 Aug.

HISTORY
OF COURT
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JURIS-
DICTION.List of
Admirals
from 8
Henry III.
to James I.1
Dom. Joh. Otervin.2
Dom. Nich. Keriell.3
Dom. Jo. de Felton.HISTORY
OF COURT
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Admirals
from 8
Henry III.
to James I.

19 Ed. 2. Istos tres, Walsinghamius nominat tres Admirallios trium plagarum Angliæ, Id est, Gerne-
In An. muthens. Portesmuthens. & Occidental. Portesmuthensis autem (quæ & meridionalis dicitur)
1325. sub occidentalis appellatione postea continetur.

ADMIRALLI BOREALES.

ADMIRALLI OCCIDENTALES.

19 Ed. 2. Joh. de Stormy Borealis Admiral.
20 Ed. 2. Joh. Sturmy boreal.
Joh. Layborn boreal. Adm. con. 19 Sep.

Nich. Criell const. Occid. Adm. 8 Dec.
Nich. Criell occidental.

1 Ed. 3. Joh. Perbrun Bor. Adm. const. 21 Apr.
7 Ed. 3.
8 Ed. 3. Joh. de Norwico Adm. bor. con. 2 Jan.
10 Ed. 3. Tho. Ughtred Adm. bor. con. 18 Feb.
10 Ed. 3. Johan. de Norwico Adm. boreal. constit. 10
Apr.
10 Ed. 3. Rob. Ufford & Jo. de Roos constit. Ad. flotæ ab
ore Tham. vers. par. bor. 14 Ja.
11 Ed. 3. Walterus de Manny Eq. aur. Ad. versus part.
boreal. constit. 11 Aug. al. 28 Julii.
12 Ed. 3. Tho. de Draiton constit. 28 Julii. Hunc. aliàs
reperio non Admirallum statui, sed tantum
Viceadmirallum loco Walteri de Manney: &
sic fortè in nonnullis aliis erratum est.
13 Ed. 3. Rob. Morley Baro de Hengham constit. 18
Febr. al. 10 Mar.
14 Ed. 3.
15 Ed. 3. Rob. de Morley constit. Apr. 15.
16 Ed. 3. Willielmus Trussell constit. 20 Dec.
17 Ed. 3. Will. Trussell.
18 Ed. 3. Rob. Uffor. Comes Suffolc. con. ad 8 Maii.
19 Ed. 3.
20 Ed. 3. Rob. de Ufford Comes Suffolciæ, 23 Feb.
21 Ed. 3. Job. de Howard Eq. aur. const. 8 Mar.
22 Ed. 3. Wal. de Manny Baro S. Salvato. 14 Mar.
22 Ed. 3. Rob. de Morley Eq. aur. const. 6 Jun.
24 Ed. 3. Rob. de Causton.

25 Ed. 3. R. de Morley boreal. Adm.
25 Ed. 3. Will de Bohun Com. Northamp. con. 8 Mar.
26 Ed. 3. Will de Bohun Comes Northampton, constit.
Adm.
29 Ed. 3. Rob. de Morley Baro de Hengham constit. 5
Mar.
30 Ed. 3. Rob. de Morley boreal. Adm.
31 Ed. 3.
33, 34 Ed. 3. Rob. de Morley boreal. Admiral.

34 Ed. 3. Jo. de Bello campo prædictus constit. Admirallus ab ore aquæ Thamesis versus partes tam-
boreales quam occidentales Angliæ, 18 Julii, 34 Edw. 3. Hic fuit eodem tempore, Dom. Gar-
dianus 5 Portuum, Constabularius Turris London, & Castri Dover, & obiit in possessione dicto-
rum munerum 2 Dec. eodem Anno.

35 Ed. 3. Rob. Herle Eq. aur. Admirallus omnium flotarum utriusque partis ut supra, constit. 26 Jan.
35 Edw. 3.

38 Ed. 3. Radulphus Spigornell constit. Admiral, utriusque partis ut supra, 7 Julii.

43 Ed. 3. Nicholaus Tamworth Eq. aur. constit. Adm.
ab ore Tham. versus partes boreales Angliæ
12 Jan.

44 Ed. 3. Jo. Nevill Eq. Aur. Baro de Raby const. 30
Maii, al. 30 Mar.

45 Ed. 3. Radul. de Ferrariis constit. 6 Oct. al. 5.
46, 47, }
& 84 } Will. de Nevill const. 7 Mar. 46 Edw. 3.
Ed. 3. }

50 Ed. 3. Will. de Ufford Com. Suffol. con. 16 Jul.

50 Ed. & } Michael de la Poole Eq. aur Dom. de Wing-
51 Ed. 3. } field constit. 24 Novemb.

1 Ric. 2. Tho. de Bello campo Jun. Com. War. 5 Dec.

2 Ric. 2. Tho. Percy Eq; frat. Com. Northumb. 5 No.

3 & 4 Ric. 2. Will. de Elmham Eq. aur. const. 8 Mar.

5 Ric. 2. Will. de Elmham.

sus partes occident. substitutus loco Walteri de
Patent. par. 8.

Wares de Valoniis Ad. Occ. con. 21 Ap.
Williel. de Clinton Ad. Occ. con. 16 Julii.
Rog. de Hegham al. Higham const. 2 Jan.

Galfridus de Say Banerettus constit. ut supra
10 Apr.

Will. de Manto constit. Admiral. vers. part.
Occiden. 14 Jan.

Bartholm. de Burghershe Eq. aur. constit. 11
Aug. al. 28 Julii.

Petrus Dardus aliàs Bard. constit. 28 Julii.

Rob. Trussell, constit. Admiral. occidental. 18
Feb.

Ric. fil. Alani Com. Arandel. con. 20 Fe.

Will. Clinton Com. Hunting. 12 Jan. al. Jun.

Rob. Beaupell constit. 20 Dec.

Jo. de Monte Gomerico.

Reginald de Cobham constit. 8 Maii.

Rich. fil. Al. Comes Arund. con. 23 Fe.

Ric. fil. Alani Comes Arundeliæ, 23 Fe.

Jo. de Monte Gomerico Eq. au. con. 23 Fe.

Regin de Cobham Eq. aur. con. 14 Mar. al. 14
Feb.

Jo. de Bello campo de Warwic. Eq. primæ fun-
dationis Ordinis Periscelidis.

Henr. Dux Lancastriæ const. 8 Mar.

Tho. de Bello campo senior Comes Warwicen.
constit.

Jo. de Bello campo de Warwick frater prædicti
Thomæ con. 5 Mart.

Guido de Brian Eq. aur. const. 1 Mar.

Guido de Brian occident. 31. Edw. 3.

Guido de Brian occidental. Adm.

Rob. Aston Eq. aur. constit. Adm. ab ore
Tham. versus part. occident. Angliæ 28 Apr.

Guido Brian Baro de constit. 3
Maii.

Rob. Aston Eq. aur. constit. 6 Oct. al. 5.

Phil. Courtney const. 7 March 46 E. 3.

Will. de Monteacuto constit. 16 Julii.

Frater Rob. de Hales Prior Hospitalis S. Jo.
Hierusalem in Angl. const. 24 Nov.

Ric. fil. Alani Jun. Com. Arun. con. 5 Dec.

Hugo Calveley Eq. aur. const. 1 Sept.

Phi. Courtney Eq. aur. consang. Reg. 8 Mar.

Jo. Roches sive de Rupibus Eq. au. Adm. flotæ
ab introitu portus villæ Southampton ver-

Hauley (qui ergo inserendus videtur) 23 Maii,

HISTORY OF COURT AND PRIZE JURIS- DICTION. List of Admirals from 8 Henry III. to James I.	ADMIRALI BOREALES.		ADMIRALI OCCIDENTALES.		HISTORY OF COURT AND PRIZE JURIS- DICTION. List of Admirals from 8 Henry III. to James I.
6 Ric. 2.	Walterus fil. Walteri Eq. aur. Dom. de Wood-	Jo. de Rupibus Eq. aur. con. Adm. ab ore aqu.			
	ham constit. 26 Oct.	Tham. versus partes occ 26 Oct.			
7 Ric. 2.	Hen. Percy Com. Northum. con. 19 No.	Edw. Courtney Com. Devon. con. 19 No.			
8 Ric. 2.	Tho. Percy frat. Hen. Com. Northumb. constit.	Jo. Radington Prior S. Johannis Hierusalem			
	29 Jan. al. 26.	in Angl. constit. 29 Jan.			
9 Ric. 2.	Phil. Dom. Darcy Eq. au. con. 22 Feb.	Thomas Trivet Eq. aur. constit. 22 Feb.			
10 Ric. 2.	Richardus fil. Alani Comes Arundel & Surregiæ, constitut.	Admirallus Angliæ 10 Dec.			
	10 Ric. 2 & mansit in officio usque ad 18 Maii An. 12. ejusdem.				
12 Ric. 2.	Jo. de Bello monte Baro de Folkingham const.	Jo. Holland Comes Huntingtoniæ frater minor			
	Adm. ab ore Tham. versus partes boreales	Tho. Com. Cantii constitut. Adm. versus			
	Angliæ 20 Maii.	partes occid. 18 Mar.			
12 Ric. 2.	Jo. de Rupibus Eq. aur.				
13 Ric. 2.	Jo. de Bello monte prædict. con. 22 Jun.	Jo. Holland Com. prædict. con. 22 Jun.			
14 Ric. 2.	Edward. Com. Rutland. const. 22 Mar.	Jo. Holland Com. prædict. con. 12 Mar.			
15 Ric. 2.	Edwardus Com. Rutland. & Corcagiæ, postea Dux Albemarlæ, const. Adm. versus partes tam				
	boreal. quam occid. 29 No. & mansit usque 9 Maii An. 21 Ric. 2.				
21 Ric. 2.	Jo. Beaufort Marchio Dorseti, ac Com. Somerseti, fil. Jo. de Gandavo Ducis Lancastriæ, &c.				
	constit. Adm. versus utrasque partes 9 Maii.				
22 Ric. 2.	Tho. Percy Comes Wigornia, frater Hen. Com. Northumb. constit. Adm. utriusque partis				
	16 Jan.				
2 Hen. 4.	Ric. Gray Baro de Codenore con. Adm. ab ore	Tho. Reniston Eq. aur. con. Adm. versus part.			
	Tham. vers. part. bo. Ang. 26 Ap.	occid. 21 Ap.			
5 Hen. 4.	Tho. Beaufort frat. prædicti Marchionis Dors.	Tho. Dom. Berkley Eq. aur. constit. ut supra			
	&c. con. 5 No.	5 Novem.			
6 Hen. 4.	Tho. Lancastrius Regis H. 4. fil. Prorex Hiberniæ, Senescallus Angliæ, postea Dux Cla-				
	renciæ, constitut. Adm. utriusque partis 20 Feb. An. 6. patris sui: & mansit in officio usque				
	28 Apr. An. seq.				
7 Hen. 4.	Nich. Blackburn Armig. const. Adm. vers. part.	Rich. Cliderhow Armig. constit. Adm. vers			
	boreal. Ang. 28 Apr.	part. occident. 28 Apr.			
8 Hen. 4.	Joh. Beaufort prædict. Com. Somerseti, &c. const. Adm. Angliæ, &c. 23 Dec. Regni frat. sui 8,				
	& stetit in officio usque 8 Maii seq. Hujus tempore jurisdictio Admiralitatis magnum accepit in-				
	crementum, causarumque cognitionem tam criminalium quam civilium.				
8 Hen. 4.	Edm. Holland Com. Cantii constit. Adm. Angliæ, &c. 8 Maii.				
9 Hen. 4.	Tho. Beaufort prædict. &c. consuit. Adm. Angliæ, &c. 1 Sept. An. frat. sui. 9. Factus fuit				Desider- antur nec forte non- nulli.
	Com. Dorset. & Dux Exon.				
4 Hen. 6.	Joh. Lancastrius Dux Bedfordiæ, Com. Richmundiæ & Candalæ, Constabularius Angl. fil.				
	Reg. H. 4. constit. Adm. Angliæ, &c. 26 Julii.				
14 Hen. 6.	Joh. Holland Dux Exoniæ, Comes Huntington, &c., constit. (cum filio suo) Adm. Angliæ. Hi-				
	bernæ, & Aquitaniæ pro termino vitæ 21 Octob. Crevit jam forensibus negotiis Admiralli				
	jurisdictio.				
25 Hen. 6.	Will. de la Poole Marchio & Comes Suffolciæ, &c. constit. Adm. Ang. Hiber. & Aquitaniæ,				
	durante pupillari ætate Henr. Ducis Exoniæ, qui per regium diploma hoc cum patre munus				
	adeptus est ad terminum vitæ eorum, &c. Officio cessit, capitæque plectus est 2 Maii 28 H. 6.				
28 Hen. 6.	Henr. Holland Dux Exoniæ prædict. &c. fil. Henr. Ducis Exoniæ, ad maturam ætatem per-				
	veniens, 23 Julii 28 H. 6. & in patrias dignitates succedens, fit Adm. Angliæ, Hiberniæ, &				
	Aquitaniæ.				
1 Edw. 4.	Rich. Nevell Comes Warwicensis & Sarisbur. constit. Adm. Angl. Hiberniæ & Aquitan. die.				
2 Edw. 4.	Will. Nevill Comes Cantii, & Baro Falconbergius constit. Adm. Angl. Hiberniæ, & Aquitan. 30				
	Julii.				
Edw. 4.	Rich. Dux Glocestriæ, frater Regis, constitut. Adm. Angl. Hibern. & Aquitaniæ, 12 Octob.				
49 Hen. 6.	Rich. Nevell Comes Warwic. & Sarisb. Capitaneus Villæ & Castri Calesiæ, Constabularius				
	Castri Dover, & Custos 5 Portuum: constitut. Adm. Angl. Hiberniæ & Aquit. 2 Jan.				

ADMIRALLI ANGLIÆ.

11 Edw. 4.	Rich. Dux. Glocestriæ prædict. &c. constitut. Adm. ut supra.
1 Ric. 3.	Jo. Howard Dux Norfolciæ, &c. const. Adm. Ang. Hiber. & Aquita. 25 Julii.
1 Hen. 7.	Jo. de Veer Comes Oxoniens. magnus Camerarius Angl. &c. constit. Adm. ut supra, 21 Sept.
	Mansit in officio usque ad 10 Martii, 4 Hen. 8. qua die obiit.
4 Hen. 8.	Edw. Howard Eq. aur. fil. Tho. Comit. Surregiæ, postea Ducis Norfolciæ, constitut. Adm. ut
	supra, 15 Aug. 4 H. 8. 1513. E navi conto excussus in portu de Brest submergitur 25 Ap. 5 Hen.
	8. Stow. 823.
5 Hen. 8.	Tho. Dom. Howard frater major prædicti Edw. Howard, postea Comes Surregiæ & deinde Dux
	Norf. constit. Adm. Angl. Hib. & Aquitan. 4 Maii, factus, ut mortem fratris de Francis vindicaret.
	Stow.
17 Hen. 8.	Henricus fil. Nothus Regis H. 8. Dux Richmundiæ & Somers. Com. Nottingham, constit. Adm.
	ut supra, 16 Julii An. Patris sui 17. Mansit in officio usque ad 22 Julii An. ejusdem Reg. 28.
	qua die obiit.
28 Hen. 8.	Will. fitz William Com. Southampt. &c. const. Adm. ut supra, 16 Aug.
32 Hen. 8.	Jo. Russell Eq. aur. Dom. Russel. constit. Adm. ut supra, 18 Julii.
34 Hen. 8.	Joh. Dudley Eq. aur. Vicecom. Insulæ, & Baro de Malpas, &c. constit. Adm. &c. 27 Jun.
1 Edw. 6.	Tho. de S. Mauro (vulgo Seimor) Eq. aur. Dom. de S. Mauro de Sudley, frat. Edwar. Ducis
	Somerset. con. Adm. Angl. Hibern. & Walliæ, Calesiæ, Bologniæ, &c. 17 Febru.

HISTORY
OF COURT
AND PRIZE
JURIS-
DICTION.List of
Admirals
from 8
Henry III.
to James I.3 Edw. 6.
4 Edw. 6.
1 Mar.
3 Mar.
27 Eliz.

Joh. Dudley Com. Warwic. Vicecom. Lisley. Eq. Periscelidis, Magnus Magister Hospitii Regis, &c. constit. Mag. Admirallus Angli Hibern. Walliæ, Calesiæ, Bologniæ, & Marchiarum earundem, Normanniæ, Gasconiæ, & Aquitaniæ, nec non præfectus generalis classis & marium Regis, 28 Octob.

Edw. Clinton Eq. Aur. Baro Clintonius & Saius, constit. Adm. ut supra, 4 Maii.
Will. Howard Eq. aur. Baro Effinghamiæ, const. ut supra, 20 Mar. 1 Mariæ.
Edwardus Clinton Eq. aur. Baro Clinton & Saius, const. Adm. ut supra, 3 Mar.
Carolus Dom. Howard. Eq. Ordinis Periscelidis, Baro de Effingham, postea & modo Comes Nottingham, constit. Magnus Admirallus Angliæ, Hiberniæ, ac Dominiorum & Insularum earundem, Villæ Calesiæ & Marchiarum ejusdem, Normandiæ, Gasconiæ, & Aquitaniæ, nec non præfectus generalis classis & marium dictorum regnorum, &c. 8 Julii.

Jacob. 16. Georgius Marchio & Comes Buckingham, Vicecomes Villers, Baro de Whaddon, Eq. Periscelidis, &c. constitutus Mag. Adm. Angliæ, &c. ut supra, 28 Jan. ex resignatione Caroli Com. Nottingham herois grandævi, dum hæ ipsæ paginæ sub prælo essent. Cui (ut præcedenti) substituitur Viceadmirallus Angl. &c. Robertus Mansell Eq. strenuus, & amore nostro admodum observandus.

Non est Dubium, quin perplures procerum istorum, Equites fuerint Periscelidis sive Garterii, sed cum id nobis non promptè innotuerit, aliis liquimus disquirendum.

ADMIRALLY ANGLIÆ.

HISTORY
OF COURT
AND PRIZE
JURIS-
DICTION.List of
Admirals
from 8
Henry III.
to James I.Admirals
of Ireland
prior to
1660.2. EXTRACTS from *Liber Munerum Hiberniæ* as to ADMIRALS and JUDGES in Admiralty in Ireland, prior to 1660.—*Reports of Record Commission*, 1852, pp. 221, 222.

ADMIRALS of IRELAND.

Admirals
of Ireland
prior to
1660.*John De Athy.*

December 7, 1335, he had a liberate of 40s. of the King's gift, for the expenses he had sustained as Admiral of the King's fleets, in all the ports and other places in Ireland, about the arresting of ships in several ports, over and above his wages for that service.—9 E. III., f. R. 3.

William Spaldyng.—Patent, May 26, 1382. 5 Ric. II., 1^a pars, d. R. 19.

Constituted Admiral in Ireland, to make diligent search in all ports and other maritime places, as well within liberties as without, by himself or his sufficient deputies, as often as he should see expedient, that no person, of what state or condition soever, except merchants and mariners, should pass the sea out of Ireland, and that no person should in any manner carry any wool, hides, or other merchandizes used to pay custom or subsidy out of Ireland, privately or publicly, without paying the duties, and to arrest the bodies and goods of such as should act contrary, and to keep them in safe custody until further orders, to certify their names into Chancery, with the true value of their ships and goods so arrested; and also to inquire, upon oath, of all persons as had heretofore or should hereafter presume to send or sell horses, salt, armour, iron, gold, silver, corn or other provisions whatever, privately or publicly, to any of the Irish or others, by land or water, contrary to the King's ordinance, proclamation, and inhibition published for that end; to seize, arrest, and keep in safe custody the persons and goods aforesaid until further orders, and to certify the value thereof to the L. L. from time to time, under his seal and the seals of the jury.—Idem.

Janico Dartas, Admiral of Ireland. Patent 1410. Pleasure.

May 31, 1410, the King appointed James Cornewalshe and Patrick Cotterell, and either of them, to be his deputies from Wykynglo (Wicklow) Head to Slepereyland, and in all other ports upon the coasts of Munster and Connaught.—B. T. 11 Hen. IV., f. No. 17.

Thomas Beaufort, D. of Dorset, brother to King Henry IV. Patent, Westminster, June 3, 1413 (1). Life.—B. T. 3 Hen. V., 1^a pars, f. No. 48.

Being an inspeximus of the letters patent of Henry IV., constituting him Admiral of the Fleet in the north-

ern and western ports of England for life, dated September 21, 1408, and upon his surrender of that patent, July 27, 1409, appointed him Admiral of the Fleet in said ports, and also in Ireland, Aquitaine, and Picardy, for life, which last patent being casually lost, he was appointed Admiral of England, Ireland, and Aquitaine; to hold from the said 21st September, 1408, for life, by patent, dated at Canterbury, March 3, 1411 (13), which King Henry V. confirmed to him by this inspeximus.—Idem.

Sir John Kighly, Knt., and *John Brygge*, Esq. Patent, December 10, 1414. Pleasure.—B. T. 2 Hen. V., f. No. 94.

Jointly and severally, in all ports throughout Ireland, as fully as the Admirals of England used to enjoy; to hear and determine all maritime affairs, &c.—Idem.

And, 1st January following, Robert Rouland was appointed Marshal of the Admiralty for life.—Idem, No. 104.

James, Lord Butler (High Treasurer), Great Admiral and Keeper of the Ports of Ireland. Patent, May 11, 1535 (27). 25, 26, 27 Hen. VIII., f. R. 12.

Sir Beverly Newcomen, Knt.—Privy Seal, Westminster, September 13, 1618 (16 James I., 4^a pars, d. R. 9). Patent, Dublin, February 18, 1618. Life.—16 James I., 3^a pars, f. R. 47.

In consideration of his many good services to y^e Crown, whereof the King had received good testimony from the Earl of Nottingham, High Admiral of England, by whose direction he had commanded one of the King's ships for many years at sea, he was constituted Admiral in and upon the coast of Ireland, and all ports therein, with the command of one of the King's ships, such as the Admiral of England should from time to time think fit for that employment and service; to hold for life, in reversion after Sir Thomas Button, and as fully as he or the Captains Robert Tenison, Charles Plesington, or George Thornton, had held the same.—Idem.

JUDGES of the ADMIRALTY.

Ambrose Forthe, Esq. (Master in Chancery), was Judge of the Admiralty. Patent, 1591. 33 Elizabeth, d. R. 6.

3. LIST of PATENTS appearing, from the MUNIMENT BOOKS of the HIGH COURT of ADMIRALTY of ENGLAND, to have been issued for the appointment of VICE-ADMIRALS, JUDGES, and other OFFICERS of the ADMIRALTY and VICE-ADMIRALTY COURTS in IRELAND, between the years 1660 and 1782.

Reference to Muniment Book.	Date of Appointment.	By whom Appointment made.	Name of Appointee.	Description of Office.	Right of Appeal reserved to—
Vol. I., p. 1,	8 August, 1660,	James, Duke of York, Lord High Admiral.	Sir George Wentworth, knt.,	Vice-Admiral of the province of Leinster,	High Court of Admiralty of England.
" p. 20,	1 September, 1660,	Ditto,	Sir William Penne, knt.,	Vice-Admiral of the province of Munster,	Ditto.
" p. 108,	19 December, 1660,	Ditto,	Edward Cooke, esq.,	Judge or Commissary of the Court of Admiralty in the province of Leinster.	Ditto.
" p. 118,	22 December, 1660,	Ditto,	Colonel Mark Trevor,	Registrar of the respective Courts of Admiralty in the respective provinces of Leinster, Connaught, Munster, and Ulster.	—
" p. 143,	28 March, 1661,	Ditto,	Sir Charles Berkeley, knt.,	Office of "Feriage" in the kingdom of Ireland, i.e. the right "of appointing and keeping ferry boats over all navigable rivers below bridges, and in arms of the sea within Admiralty jurisdiction."	—
" p. 145,	28 March, 1661,	Ditto,	John Davis, esq.,	Vice-Admiral of the province of Ulster,	High Court of Admiralty of England.
" p. 151,	30 March, 1661,	Ditto,	John Dolway, LL.D.,	Judge of Vice-Admiralty in the province of Ulster,	Ditto.
" p. 155,	3 April, 1661,	Ditto,	Patrick Savage, gent.,	Marshal and Sergeant-at-Mace of the Vice-Admiralty Court of the province of Ulster.	—
" p. 190,	3 August, 1661,	Ditto,	Robert Smith and Richd. Shirt, gentlemen.	Jointly and severally Marshals and Sergeants-at-Mace and Water Bailiffs of the kingdom of Ireland.	—
" p. 231,	23 January, 1663,	Ditto,	Joshua Boyle, LL.D.,	Judge of Vice-Admiralty in the province of Munster,	High Court of Admiralty of England.
" p. 242,	26 June, 1665,	Ditto,	Sir Maurice Berkeley, knt.,	Office of Feriage (see above, p. 143).	—
" p. 244,	10 January, 1666,	Ditto,	Nicholas Turke, esq.,	Judge of Vice-Admiralty in the province of Ulster,	High Court of Admiralty of England.
" p. 249,	16 January, 1666,	Ditto,	— Gorges, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 273,	3 June, 1667,	Ditto,	Arthur Le Squire, gent.,	Marshal and Sergeant-at-Mace of the province of Ulster,	—
Vol. II., p. 1 ^a ,	13 March, 1668,	Ditto,	Carey Dillon, esq.,	Vice-Admiral of the province of Leinster,	High Court of Admiralty of England.
" p. 45,	22 August, 1670,	Ditto,	Lord Lewis Blangford de Duras,	Registrar of the Courts of Admiralty in the provinces of Leinster, Connaught, Munster, and Ulster.	—
" p. 46,	13 September, 1670,	Ditto,	William Glastocke, esq.,	Judge of the Admiralty in the kingdom of Ireland,	High Court of Admiralty of England.
" p. 48,	19 September, 1670,	Ditto,	Robert Southwell, esq.,	Vice-Admiral in the province of Munster,	Ditto.
Vol. III., p. 93,	1 July, 1685,	King James II.,	Henry Siles, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 144,	28 July, 1686,	Ditto,	Carey, Earl of Roscommon,	Vice-Admiral in the province of Leinster,	Ditto.
" p. 150,	7 August, 1686,	Ditto,	Sir Paul Ricaut, knt.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.

HISTORY
OF COURT
AND PRIZE
JURISDICTION.

Patents of
Officers of
Admiralty and
Vice-Admiralty
Courts in
Ireland,
1660-1782.

3. List of PATENTS appearing from the MUMIMENT BOOKS of the HIGH COURT of ADMIRALTY of ENGLAND, &c.—*continued.*

Reference to Muni- ment Book.	Date of Appointment.	By whom Appointment made.	Name of Appointee.	Description of Office.	Right of Appeal reserved to—
Vol. IV., p. 42,	21 February, 1691, .	Lords of the Admiralty, .	Sir Paul Ricaut, knt. (renewed patent),	Judge of the Admiralty in the kingdom of Ireland, .	High Court of Admiralty of England.
" p. 48,	27 May, 1691, .	Ditto, .	Sir Robert Southwell, knt., .	Vice-Admiral in the province of Munster, . . .	Ditto.
" p. 38,	21 July, 1691, .	Ditto, .	Sir Oliver St. George, knt., .	Vice-Admiral in the province of Connaught, . . .	Ditto.
" p. 49,	23 July, 1691, .	Ditto, .	Henry Wallop, esq., .	Vice-Admiral in the province of Leinster, . . .	Ditto.
" p. 57,	31 April, 1691, .	Ditto, .	Gustavus Hamilton, esq., .	Vice-Admiral in the province of Ulster, . . .	Ditto.
" p. 68,	22 January, 1692, .	Ditto, .	John, Earl of Bath, .	Vice-Admiral in the province of Leinster, . . .	Ditto.
" p. 137,	31 December, 1695, .	Ditto, .	John Eyres, esq., .	Vice-Admiral in the province of Connaught, . . .	Ditto.
" p. 139,	8 January, 1696, .	Ditto, .	Sir George St. George, bart., .	Vice-Admiral in the province of Connaught, . . .	Ditto.
Vol. V., p. 16,	22 December, 1699, .	Ditto, .	Thomas Lennox, esq., .	Marshal and Sergeant-at-Mace of the respective Courts of Vice-Admiralty of Leinster, Munster, Connaught, and Ulster.	—
" p. 17,	13 January, 1700, .	Ditto, .	Thomas Farren, esq., .	Judge of Vice-Admiralty in the respective provinces of Leinster, Munster, Ulster, and Connaught.	High Court of Admiralty of England.
" p. 20,	6 February, 1700, .	Ditto, .	Walter Bunbury, esq., .	Registrar of the respective Courts of Vice-Admiralty in the respective provinces of Leinster, Munster, Ulster, and Connaught.	—
" p. 38,	30 July, 1701, .	Ditto, .	Edward Southwell, esq., .	Vice-Admiral in the province of Munster, . . .	High Court of Admiralty of England.
" p. 106,	19 June, 1702, .	Prince George of Denmark, Lord High Admiral, .	Ditto (renewed patent), .	Vice-Admiral in the province of Munster, . . .	Ditto.
" p. 107,	18 June, 1702, .	Ditto, .	John Granville, esq., .	Vice-Admiral in the province of Leinster, . . .	Ditto.
" p. 133,	21 August, 1702, .	Ditto, .	William King, LL.D., .	Judge of the Admiralty in the kingdom of Ireland, .	Ditto.
" p. 142,	8 October, 1702, .	Ditto, .	Gustavus Hamilton, esq., .	Vice-Admiral in the province of Ulster, . . .	Ditto.
" p. 152,	26 January, 1703, .	Ditto, .	Sir George St. George, bart., .	Vice-Admiral in the province of Connaught, . . .	Ditto.
" p. 207,	9 April, 1708, .	Ditto, .	Philip Savage, esq., .	Vice-Admiral in the province of Leinster, . . .	Ditto.
" p. 212,	4 October, 1708, .	Ditto, .	John Hawkshaw, LL.D., .	Judge of the Admiralty in the kingdom of Ireland, .	Ditto.
Vol. VI., p. 26,	22 January, 1709, .	Thomas, Earl of Pembroke, Lord High Admiral, .	Philip Savage, esq., .	Vice-Admiral of the province of Leinster, . . .	Ditto.
" p. 29,	7 February, 1709, .	Ditto, .	Edward Southwell, esq., .	Vice-Admiral of the province of Munster, . . .	Ditto.
" p. 30,	" .	Ditto, .	Sir George St. George, bart., .	Vice-Admiral of the province of Connaught, . . .	Ditto.

Vol. VI. p. 30,	7 February, 1709,	Ditto,	Gustavus Hamilton, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 31,	22 February, 1709,	Ditto,	John Hawkshaw, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 37,	16 March, 1709,	Ditto,	Roland Davies, LL.D.,	Judge of the Court of Vice-Admiralty in the province of Munster,	Ditto.
" p. 37,	"	Ditto,	Garrett Fitzgerald, esq.,	Registrar of the Court of Vice-Admiralty in the province of Munster,	—
" p. 38,	"	Ditto,	Samuel Denny, gent.,	Marshal of the Court of Vice-Admiralty in the province of Munster,	—
" p. 66,	22 December, 1709,	Lords of the Admiralty,	John Hawkshaw, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	High Court of Admiralty of England.
" p. 68,	3 January, 1710,	Ditto,	John Allen, esq.,	Vice-Admiral of the province of Leinster,	Ditto.
" p. 70,	10 January, 1710,	Ditto,	Frederick Hamilton, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 74,	17 February, 1710,	Ditto,	Sir George St. George, bart.,	Vice-Admiral of the province of Connaught,	Ditto.
" p. 78,	13 April, 1710,	Ditto,	Edward Southwell, esq.,	Vice-Admiral of the province of Munster,	Ditto.
" p. 103,	7 February, 1711,	Ditto,	Philip Savage, esq.,	Vice-Admiral of the province of Leinster,	Ditto.
" p. 151,	30 December, 1714,	Ditto,	Richard, Viscount Fitzwilliam,	Vice-Admiral of the province of Leinster,	Ditto.
" p. 154,	4 January, 1715,	Ditto,	John Hawkshaw, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 159,	24 January, 1715,	Ditto,	Sir George St. George, bart.,	Vice-Admiral of the province of Connaught,	Ditto.
" p. 160,	24 January, 1715,	Ditto,	Frederick Hamilton, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 168,	12 February, 1715,	Ditto,	Edward Southwell, esq.,	Vice-Admiral of the province of Munster,	Ditto.
" p. 190,	22 February, 1716,	Ditto,	Gustavus Hamilton, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 203,	3 April, 1717,	Ditto,	Thomas Farren, esq.,	Judge of the Vice-Admiralty Court of the province of Munster,	Ditto.
" p. 204,	"	Ditto,	James Weeks, gent.,	Registrar of the Vice-Admiralty Court of the province of Munster,	—
Vol. VII. p. 116,	22 August, 1727,	Ditto,	Edward Southwell, esq.,	Vice-Admiral of the province of Munster,	High Court of Admiralty of England.
" p. 119,	4 September, 1727,	Ditto,	John Hawkshaw, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 131,	25 October, 1727,	Ditto,	Lord George St. George,	Vice-Admiral of the province of Connaught,	Ditto.
" p. 152,	27 February, 1728,	Ditto,	Richard Fitzwilliams, esq.,	Vice-Admiral of the province of Leinster,	Ditto.
Vol. VIII. p. 8,	16 October, 1728,	Ditto,	John Love, esq.,	Judge of the Court of Vice-Admiralty of the province of Munster,	Ditto.

3. List of PATENTS appearing from the MUNITMENT BOOKS of the HIGH COURT OF ADMIRALTY OF ENGLAND, &c.—continued.

Reference to Munitment Book.	Date of Appointment.	By whom Appointment made.	Name of Appointee.	Description of Office.	Right of Appeal reserved to—
Vol. VIII. p. 79,	27 June, 1733,	Lords of the Admiralty,	Edward Southwell, esq.,	Vice-Admiral of the province of Munster,	High Court of Admiralty of England.
" p. 109,	8 December, 1735,	Ditto,	John Usher, esq.,	Vice-Admiral of the province of Connaught,	Ditto.
Vol. IX., p. 6,	15 January, 1745,	Ditto,	Hugh Baillie, LL.D.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 57,	6 November, 1747,	Ditto,	Stratford Eyre, esq.,	Vice-Admiral of the province of Connaught,	Ditto.
" p. 60,	2 March, 1748,	Ditto,	Henry Conyngham, esq.,	Vice-Admiral of the province of Ulster,	Ditto.
" p. 61,	11 March, 1748,	Ditto,	Richard Clarke, LL.D.,	Advocate of Vice-Admiralty in the kingdom of Ireland,	—
" p. 76,	22 March, 1751,	Ditto,	William Austen, gent.,	Judge of the Vice-Admiralty of the province of Munster,	High Court of Admiralty of England.
" p. 85,	7 March, 1752,	Ditto,	James Shiel, B.C.L.,	Advocate of Vice-Admiralty in the kingdom of Ireland,	—
" p. 100,	20 March, 1755,	Ditto,	Right Hon. Brabazon, Earl of Bessborough,	Vice-Admiral of the province of Munster,	High Court of Admiralty of England.
" p. 111,	6 December, 1756,	Ditto,	Robert Fitzgerald, esq.,	Judge of the Admiralty in the kingdom of Ireland ("in the room of Dr. Hugh Baillie, dismissed.")	Ditto.
" p. 124,	18 October, 1758,	Ditto,	Right Hon. William, Earl of Bessborough,	Vice-Admiral of the province of Munster,	Ditto.
" p. 130,	8 September, 1760,	Ditto,	Thomas Tisdall, gent.,	Registrar of the Admiralty in the kingdom of Ireland,	—
" p. 133,	3 April, 1761,	Ditto,	Right Hon. William, Earl of Bessborough,	Vice-Admiral of the province of Munster,	High Court of Admiralty of England.
" p. 135,	15 April, 1761,	Ditto,	Right Hon. Richard, Viscount Fitzwilliams,	Vice-Admiral of the province of Leinster,	Ditto.
" p. 149,	22 July, 1761,	Ditto,	Stratford Eyre, esq.,	Vice-Admiral of the province of Connaught,	Ditto.
" p. 150,	1 August, 1761,	Ditto,	Robert Fitzgerald, esq.,	Judge of the Admiralty in the kingdom of Ireland,	Ditto.
" p. 153,	1 August, 1761,	Ditto,	James Shields, B.C.L.,	Advocate of Vice-Admiralty in the kingdom of Ireland,	—
" p. 154,	1 August, 1761,	Ditto,	Thomas Tisdall, gent.,	Registrar of the Admiralty of Ireland,	—
Vol. X., p. 105,	2 June, 1769,	Ditto,	Right Hon. Lord Viscount Conyngham,	Vice-Admiral of the province of Ulster,	High Court of Admiralty of England.
" p. 156,	5 August, 1774,	Ditto,	Hugh O'Neill, esq.,	Marshal and Sergeant-at-Mace of the Vice-Admiralty Court of the kingdom of Ireland.	—
" p. 162,	18 May, 1776,	Ditto,	Warden Hood, esq.,	Judge of the Admiralty in the kingdom of Ireland,	High Court of Admiralty of England.
Vol. XI., p. 7,	16 April, 1779,	Ditto,	Right Hon. William Burton,	Vice-Admiral of the province of Ulster,	Ditto.

HISTORY
OF COURT
AND PRIZE
JURISDICTION.

Letter
from
Privy
Council,
England,
to Lord
Lieutenant,
Ireland,
concerning
settlement
of the matter
about
prizes in
1665.

4. LETTER from the PRIVY COUNCIL in ENGLAND to the LORD LIEUTENANT of IRELAND, 26th June, 1665, concerning settlement of Matters about Prizes.

"After our very hearty commendations to your Lordship. Upon motion made at this Board for the settling the business and concern of prizes in Ireland to His Majesty's best advantage, the matter was referred unto His Majesty's Principal Commissioners of Prizes to examine the method formerly used; and upon report thereof to this Board, His Majesty (being present in Council) was pleased to direct, that the ancient method used should still continue, as to the management of the business by Chief Commissioners there in Ireland, and it was ordered, that the Chief Governor or Governors for the time being, should appoint and nominate Commissioners according to the method now used in England; we, therefore, think fit hereby to desire and authorize you to nominate such of the Privy Council there as you think fit, to be Principal Commissioners of Prizes, and that they be constituted under the Great Seal to act according to such instructions as in your judgments will best induce to His Majesty's service; and that the said Principal Commissioners have power to issue commission to such Sub-Commissioners in the seaports as shall be nominated by you; and also to elect other their inferior officers, and to issue instructions unto all for the better management and due execution of His Majesty's service, committed to their respective cares. And whereas several rules and directions have issued from this Board

unto the High Court of Admiralty here, for the better distribution of justice to the subjects of His Majesty's allies, and the prevention of several abuses in practice by fraudulent claimers; and whereas there hath issued under the great seal a commission of appeal unto several Lords of the Council, conformable to the tenor of the said directions; we think fit that copies of the said directions be transmitted to you, to the end the Court of Admiralty there may be also regulated in their proceedings accordingly; and that you cause in like manner a commission of appeal to issue unto such persons of the Privy Council there whom you judge most proper for the same, still preserving entire the jurisdiction of the High Court of Admiralty here in England, unto which any person aggrieved may, if they please, bring their appeals, notwithstanding the said commission. And all such other directions which you conceive most advantageous to His Majesty's service, and most conformable to the rules of justice, we recommend unto your particular care and distribution; and bid you heartily farewell. From the Court at Whitehall, the 26th of June, 1665."

Signed by LORD ARCHBISHOP of CANTERBURY.
LORD CHANCELLOR.
&c., &c., &c.

HISTORY
OF COURT
AND PRIZE
JURISDICTION.

Letter
from
Privy
Council,
England,
to Lord
Lieutenant,
Ireland,
concerning
settlement
of the matter
about
prizes in
1665.

Letter
from
Privy
Council,
England,
to Lord
Lieutenant,
Ireland,
concerning
His Royal
Highness
the Duke
of York's
rights in
prizes.

5. LETTER from PRIVY COUNCIL in ENGLAND to the LORD LIEUTENANT of IRELAND, 4th January, 1666, concerning His Royal Highness the Duke of York's rights to Prizes.

Signed by Lord Archbishop of Canterbury, Lord Chancellor, Lord Chamberlain, Earl of Sandwich, Earl of Carlisle, Earl of Middleton, Earl of Carbery, Earl of Orrery, Lord Viscount Fitzharding, Lord Arlington, Lord Berkeley, Mr. Vice-Chamberlain, Mr. Secretary Morice, Mr. Chancellor of the Duchy, Sir William Coventry.

A LETTER to the LORD LIEUTENANT and COUNCIL in IRELAND.

After, &c. It being represented to His Majesty by His Royal Highness the Duke of York's Commissioners for Prizes in behalf of His Highness (Lord High Admiral of England and Ireland, &c.), that three French ships, called the Peter of Skellavett, the Isabel of Nantz, and the Susanna of Mornac, were seized in port in Ireland, by His Royal Highness' officers, after the declaration of war against the French King, and condemned as French, but by some error of the Judge of the Admiralty in the province of Munster, in Ireland, not knowing the rules prescribed here by His Majesty and Council, were adjudged for His Majesty's benefit, and not for His Royal Highness, as (of right) they ought to have been. And that two other ships, called the Prince of Denmark and Orange Tree, were both seized in port, about twelve months after the beginning of the wars between His Majesty and the States of the United Provinces, and condemned as Dutch; but, by the like error of the same Judge, adjudged also for His Majesty, and all of them sold and disposed for His Majesty's use. And in regard the said Commissioners apprehended the benefit of all the said ships before mentioned did and doth belong to His said Royal Highness as Lord High Admiral, although the value and prices for which they have been sold have been paid into His Majesty's receipt of Exchequer in Ireland, and praying the same may be refunded for His Royal Highness' use. And whereas (for direction as well of His Majesty's officers as of those relating to the Lord High Admiral), upon hearing and debate of sundry particulars between His Majesty's counsel learned in the common law and the Judge of the High Court of Admiralty, and those of His Majesty and His Royal Highness (the Lord High Admiral's counsel in the High Court of Admiralty) upon the 6th of March, 1665,—it was ordered (His Majesty present in Council):—

1. That all ships and goods belonging to enemies,

coming into any port, creek, or road, of His Majesty's kingdoms of England or Ireland, by stress of weather or other accident, or by mistake of ports, or by ignorance, not knowing of the war, do belong to the Lord High Admiral. But as such as shall voluntarily come in, either men-of-war or merchantmen, upon revolt from the enemy, and such as shall be driven in, and forced into ports by the King's men-of-war, and also such ships as shall be seized in any of the ports, creeks, or roads of this kingdom, or of Ireland, before any declaration of war or reprisals by His Majesty, do belong unto His Majesty.

2. That all enemies' ships and goods, casually met at sea, and seized by any vessel not commissioned, do belong to the Lord High Admiral.

3. That salvage belongs to the Lord High Admiral for all ships rescued.

4. That all ships forsaken by the company belonging to them are the Lord High Admiral's, unless a ship commissioned, having given the occasion to such dereliction, and the ship so left be seized by such ship pursuing, or by some other ship commissioned then in the same company and in pursuit of the enemy, and the like is to be understood of any goods thrown out of any ships pursued.

Which said particulars we have thought fit to communicate to your Grace, to prevent errors or mistakes for the future by the Judge or Judges within their several Vice-Admiralties in Ireland in adjudication of prizes. Upon consideration of which premises His Majesty in Council hath been pleased to give us in command to signify unto your Grace his royal will and pleasure. That all such sum and sums of money as the said three French ships, the Peter of Skellavett, the Isabel of Nantz, and Susanna of Mornac, and the two other ships, called the Prince of Denmark and Orange Tree, and all the goods in the said several ships, were sold for by His Majesty's Commissioners in Ireland, and the moneys paid into the receipt of His Majesty's Exchequer there, all charges and duties paid by his Majesty or his officers being first deducted, be refunded and paid to His said Royal Highness (in right of His admiral jurisdiction in Ireland) or to such his Commissioners, as His said Royal Highness hath or shall hereafter commissionate in that behalf for his use; and that (by your Grace's care and authority) the Earl of Anglesey (His Majesty's Vice-Treasurer and Treasurer-

Letter
from
Privy
Council,
England,
to Lord
Lieutenant,
Ireland,
concerning
His Royal
Highness
the Duke
of York's
rights in
prizes.

HISTORY
OF COURT
AND PRIZE
JURISDIC-
TION.

Letter
from
Privy
Council,
England,
to Lord
Lieut-
enant,
Ireland,
concern-
ing His
Royal
Highness
the Duke
of York's
rights in
prizes.

Letter
from Sir
Leoline
Jenkins to
James
Duke of
York, con-
cerning
the Court
of Appeals
in Ad-
miralty
causes.

at-War for that his kingdom of Ireland) upon repay-
ment of the same, be legally and fully discharged and
indemnified; and that your Grace do also command
to the Judges of the Courts of Admiralty in the several
provinces in Ireland upon all adjudications of prizes in
that kingdom, diligently and circumspcctly to pursue
and be guided in all matters comprised in the said
order, according to the rules aforesaid established be-

tween His Majesty's and His said Royal Highness,
and so, &c. Dated the 4th of January, 1666.

(Signed),

LORD CHANCELLOR.

DUKE OF ALBEMARLE.

MARQUIS OF DORCHESTER.

EARL OF BATH.

EARL OF LAUDERDALE.

EARL OF CRAVEN.

LORD ARLINGTON.

LORD BERKELEY.

MR. VICE-CHAMBERLAIN.

HISTORY
OF COURT
AND PRIZE
JURISDIC-
TION.

Letter
from
Privy
Council,
England,
to Lord
Lieut-
enant,
Ireland,
concern-
ing His
Royal
Highness
the Duke
of York's
right's in
prizes.

Letter
from Sir
Leoline
Jenkins to
James
Duke of
York, con-
cerning
the Court
of Appeals
in Ad-
miralty
causes.

6. LETTER from SIR LEOLINE JENKINS to JAMES DUKE OF YORK, LORD HIGH ADMIRAL of England and Ireland, as to the COURT of APPEALS in ADMIRALTY CAUSES, 1670.

To HIS ROYAL HIGHNESS.*

May it please your Royal Highness,

If a Court of Appeals in Admiralty Causes be erected at *Dublin*, with resort to your Royal Highness's Court of Admiralty at *London*, no man of the remote *Irish* Provinces can be sure of an end of his suit, without running through four several instances—*viz.*, from *Connaught*, for example, to *Dublin*; from *Dublin* to the Court of Admiralty here; from thence to His Majesty's Court of Delegates. Whereas by the present Constitution, there is no possibility of prolonging a suit beyond the third instance. It is not suggested, that the Court of Appeals in *Dublin* is of any longer standing than the time of two Judges successively, the last of which died about the year 1640. Nor is there any *Constat* of that among your Royal Highness's Records here; especially not any President of such a Commission, nor any process of Appeal from that Court (as a Court of Appeal) to this Admiralty. Nor do I hear of any Acts or Records of that Court now to be seen in *Dublin*, whereby it may appear how far, or in what manner, that Jurisdiction had been (*de facto*) exercised.

This I do with all humility mention, because it's possible some such evidence will be required, in case this re-establishment comes hereafter to be questioned. For if we cannot make it out that this Court of Appeals is either founded upon a prescription time out of mind, or else established by Act of Parliament, we cannot

be sure but that the Officers acting in such a Court, will be reputed new Officers, and consequently their Fees to be new Fees, that is, so many unpardonable instances of extortion from the people. Sure I am, your Royal Highness aims at nothing but the honour of the Government, the ease of the subject, and the good order of your Admiralties. And it is possible that these ends might be best secured, if it were practicable to make the Judgments in the several Provinces to be final and decisive, without further Appeal, to a certain value; for instance to £10 or £20. That in Causes above that value there should be an Appeal to *Dublin*, and that the sentence there should be likewise decisive and final to a higher value, but to be ascertain'd and fix'd by your Royal Highness. And that as in every Cause above such a value an Appeal should lie hither to your Royal Highness, so all Appeals should be rejected (at least not heard till after Execution had) that should happen to be interposed upon the undervalue. How reasonable or expedient this Method may be in *Ireland*, I know not; I only mention it, as the more likely innovation of the two (if the first-mentioned must be reputed one), and as the received Practice in other Countries, where the Civil Law obtains. All which is with the greatest humility submitted to your Royal Highness's Wisdom.

(Signed)

L. JENKINS.

June 23, 1670.

Judges
appointed
by King
James II.

7. EXTRACTS from *Liber Munerum Publicorum Hiberniae*, as to a JUDGE of the ADMIRALTY in Ireland, appointed by KING JAMES II., first, when DUKE of YORK, and LORD HIGH ADMIRAL of Ireland, and secondly, after he ascended the throne.

Judges
appointed
by King
James II.

JUDGES of the ADMIRALTY.

Sir Robert Southwell, Knt. Patent, April 21, 1677.
29 Car. II., 4th pars. f. R. 12.

Appointed by the Duke of York to be Judge of the Admiralty Court in the province of Munster.—Idem.

Richard O'Donovan, Esq. (Counsellor at Law), in Ire-
land. Patent, July 23, 1689.—5 Jac. II., 2nd pars,
f. R. 24.

Extracts
from
Patent of
Judge of
Vice-Ad-
miralty
Court of
Munster,
1677.

8. TRANSLATION of EXTRACTS from Patent of Sir ROBERT SOUTHWELL, as JUDGE of the VICE-ADMIRALTY COURT of the Province of Munster in 1677.

The title of James, Duke of York is given thus:—

"James, Duke of York and Albany, Earl of Ulster, Knight of the most illustrious Order of the Garter, Lord High Admiral of Ireland."†

The right of appeal to the High Court of Admiralty of England is reserved in these terms:—

"And saving the right of every person injured or

burdened by any definition, sentence, or interlocutory judgment in the said Court of the Vice-Admiralty of the province of Munster, to appeal to the High Court of Admiralty of England."

The conclusion of the patent is in these terms:—

"Given from the High Court of Admiralty of Ireland, 21st April, 1677."

Extracts
from
Patent of
Judge of
Vice Ad-
miralty
Court of
Munster,
1677.

* Life of Sir Leoline Jenkins, by William Wynn, Esq., Vol. II., page 675.

† James, Duke of York, had ceased to be Lord High Admiral of England in 1673. Vide Brown's Admiralty, p. 26.

HISTORY
OF COURT
AND PRIZE
JURISDIC-
TION.

Warrant
to Judge
of Admi-
ralty
Court of
Ireland in
1745 to
hear prize
causes.

9. WARRANT to DOCTOR BAILLIE, JUDGE of ADMIRALTY COURT of IRELAND, 4th June, 1745, to hear Prize Causes arising out of War with SPAIN.*

HISTORY
OF COURT
AND PRIZE
JURIS-
DICTION.

Warrant
to Judge
of Admi-
ralty
Court of
Ireland in
1745 to
hear prize
causes.

Whereas His Majesty has declared war against Spain; we do in pursuance of His Majesty's Commission under the Great Seal of Great Britain, dated the 30th day of November, 1739, a copy whereof is hereunto annexed, hereby will and require the Admiralty Court of Ireland, and you the Judge of the said Court, and the Judge thereof now and for the time being, to take cognizance of, and judicially to proceed upon all and all manner of captures, seizures, prizes, and reprisals of all ships and goods already seized and taken, and which hereafter may be seized and taken, and to hear and determine the same, and according to the course of Admiralty and laws of nations, to adjudge and condemn all such ships, vessels, and goods as shall belong to Spain, or the vassals and subjects of the King of Spain, or to any other inhabiting within any of his countries, territories, or dominions, and all such other ships, vessels,

and goods, as are or shall be liable to confiscation pursuant to the respective treaties between His Majesty and other princes, States, and potentates, which shall be brought before you for trial and condemnation, and for so doing this shall be your sufficient warrant. Given under our hands and the seal of the Office of Admiralty the 4th of June, 1745, in the eighteenth year of His Majesty's reign.

BEDFORD.

SANDWICH.

G. ANSON.

G. GRENVILLE.

By, &c.

To Dr. Hugh Baillie, Judge of the Admiralty of Ireland, and to the Judge of the said Court for the time being.

Letter
from
Lords
Commis-
sioners to
Judge

Baillie to
answer the
complaint
made
against
him by
Mr. Love,
Judge of
Munster,
in ap-
pointing
Judges of
the ports
of Cork
and Kin-
sale.

10. LETTER from the LORDS COMMISSIONERS of the ADMIRALTY to HUGH BAILLIE, Esq., LL.D., 15th October, 1745, enclosing a Petition of JOHN LOVE, Esq., Judge of the Vice-Admiralty Court of Munster, to the Lords Commissioners of the Admiralty.

SIR,

15th October, 1745.

I am commanded by my Lords Commissioners of the Admiralty to send you the enclosed Copy of a Petition of John Love, Esquire, Judge of the Vice-Admiralty Court of Munster, in the Kingdom of Ireland, setting forth that, notwithstanding his Patent from the High Court of Admiralty of England for his being Judge of the said Vice-Admiralty Court, you have taken upon you to substitute and depute persons to act as Judges of the Admiralty at the

Ports of Cork and Kinsale, which are in the Province of Munster, and praying to have their Lordships aid and protection. Their Lordships command me to signify their direction to you immediately to give a particular answer to the said Petition.

I am, &c.,

T. C.

By, &c.

Dr. Hugh Baillie, in Town.

Letter
from
Lords
Commis-
sioners to
Judge
Baillie to
answer the
complaint
made
against
him by
Mr. Love,
Judge of
Munster,
in ap-
pointing
Judges of
the ports
of Cork
and Kin-
sale.

Petition of
Mr. Love,
Judge of
Vice-Ad-
miralty
Court of
Munster.

11. PETITION enclosed in foregoing LETTER.

To the Right Honorable the Lords Commissioners for executing the Office of Lord High Admiral of Great Britain and Ireland.

The humble Petition of JOHN LOVE, Esq., Judge of the Vice-Admiralty Court of Munster, in the Kingdom of Ireland,

SHEWETH—

That in pursuance of your Lordships' Warrant of the sixteenth day of the month of October, in the year of our Lord 1739, your Petitioner obtained a patent under the Great Seal of the High Court of Admiralty of England for executing the Office of Judge of the Court of Vice-Admiralty of the Province of Munster, in the Kingdom of Ireland, and from the said time hath legally and peaceably exercised the said office of Judge of the said Vice-Admiralty Court till in or about the month of July last past, when Hugh Baillie, Esq., Doctor of Laws, Comisary, Deputy, and Surrogate of the Vice-Admiralty Court of the Kingdom of Ireland aforesaid, under the colour of your Lordships' authority, took upon himself to substitute and depute the Rev. St. John Brown, a Clergyman, and others at Cork, to exercise

the office of Judge of the Admiralty for the port of Kingsale, and the District thereof, in all causes pertaining to the Admiral's Jurisdiction, and also to substitute other persons to exercise the said office at Cork, which Ports of Cork and Kingsale are within the Province of Munster, and the Jurisdiction granted by your Lordships to your Petitioner, and are the principal seaports within the said Province; and by means thereof, and by reason the said St. John Brown hath wrote letters threatening your Petitioner and his officers, your Petitioner is obstructed in the exercise of that Jurisdiction which your Lordships granted to him by patent as aforesaid, and which was always exercised by your Petitioner and his predecessors, Judges of the said Court of Vice-Admiralty of Munster.

That your Petitioner, by virtue of his office, seized as perquisites of the Admiralty 800 barrels of beef and 400 barrels of pork bound from Ireland for the service of the Spanish Fleet; and upon all occasions, as far as in him lay, hath endeavoured the advancement of His Majesty's honour and interest, and the faithful discharge of his office, and therefore humbly prays your Lordships' aid and protection therein, in such manner as your Lordships shall think meet.

Petition of
Mr. Love,
Judge of
Vice-Ad-
miralty
Court of
Munster.

* A similar warrant of same date was issued to him to hear prize causes arising out of war with France.

HISTORY
OF COURT
AND PRIZE
JURIS-
DICTION.

Answer of
Judge
Baillie to
Mr. Love's
Petition.

12. ANSWER OF HUGH BAILLIE, Esq., LL.D., Judge of the High Court of Admiralty of Ireland, to the foregoing Petition.

The Answer of HUGH BAILLIE, esquire, Doctor of Laws, and Judge in the High Court of Admiralty of Ireland;

To a Petition given into the Right Honorable the Lords Commissioners for executing the Office of Lord High Admiral of Great Britain and Ireland, in name of JOHN LOVE, esquire, Judge in the Vice-Admiralty Court of Munster, in the said Kingdom of Ireland.

SHREWETH—

That the said Petition sets forth, that the Petitioner, in pursuance of a Warrant from your Lordships, in 1729, obtained a Patent under the seal of the Admiralty Court of England, for being Judge in the said province of Munster, and says that he exercised the said office peaceably till last July; that I, under colour of your Lordships' authority, took upon me to substitute and depute the Reverend St. John Brown, a clergyman, at Kingsale, and others at Cork, to exercise the said office in said districts, in all causes pertaining to the Admiral's jurisdiction; and that the said Petitioner, by threatening letters from the said St. John Brown, is hindered and obstructed in the exercise of his said office, &c.

1st—I beg leave to observe that if the said Petitioner has any such Patent, it's what I am quite a stranger to, he never having signified any such thing to me, or to any body in the Court where I have the honour to be Judge, as far as I know; and I am in your Lordships' judgment whether this Petitioner should not first let me know wherein he thought himself injured, and for what reasons, before he had complained to your Lordships. Had he in the least signified to me that my appointing deputies was an encroachment on any right of his, and laid the case before me, I would have immediately laid the case before your Lordships; but for a gentleman to complain to your Lordships that due regard was not paid to his Patent, without ever intimating to me what it was, was not using me well, as I humbly conceive; and I hope your Lordships will not blame me for not showing due regard to a patent I did not know, nor had access to know.

2ndly—I, with great submission, apprehend it to be my duty to do what I have done, notwithstanding I had known all that is contained in the said petition, for, as I apprehend myself, to be obliged by your Lordships' Commission to me not to relinquish nor give up any of the privileges my predecessors in office were possessed of, so I could not have acted otherwise than I have done, without being guilty of a breach of trust. I found by looking over the Admiralty books that the Judge of that Court had been in the constant and uninterrupted possession of naming deputies through the different parts of the kingdom for the more easy dispatch of small causes not exceeding £50, and accordingly, at the desire of the trading part of the country, I did appoint such deputies in some of the principal trading ports as I found had the best characters for integrity and knowledge of their business. My appointing such deputies was hurting myself, by taking all the small causes from my own Court; but as it was represented to me that it was for the good of trade and the public, and that I found it had been the constant practice, I thought it my duty to comply with what seemed the desire of these trading places, because by that means they got justice without stirring from home, and if any injustice was done they could appeal to me.

3rdly—I must beg leave to observe to your Lordships that this Petitioner misrepresents the Commissions I gave these deputies, when he says I empowered my deputies to determine all causes pertaining to the Admiral's Jurisdiction, for their commissions were direct copies taken from the books of the commissions granted by the former Judges in my office (of which the books are full) to their deputies in particular districts, by which they are restricted to causes under £50.

HISTORY
OF COURT
AND PRIZE
JURIS-
DICTION.

Answer of
Judge
Baillie to
Mr. Love's
Petition.

4thly—The Petitioner insinuates as if I had named an improper person for Kingsale, by saying he is a clergyman, but he forgets taking notice of this likewise that he is a Doctor of Law, and reckoned the best civilian in that part of the country. He was recommended to me by my Lord Kingsale as the fittest person to be named, and was a person agreeable to everybody's inclination. The Petitioner sets forth that the said Judge at Kingsale had wrote threatening letters to him; if he has I know nothing of them; but I wish the gentleman would show these letters, for I believe he must have mistaken the intention of Dr. Brown, because a few days before I left Dublin he wrote to me with great regard of a gentleman who he said pretended to be Judge for Munster, and desired to know my opinion of the affair. I wrote him I did not know the nature of that gentleman's Commission, but that if there was such a Commission I took it to be a Cumulative Jurisdiction with his, and in the case of Cumulative Jurisdictions where there was no dependence on one another, the cause must be determined in the Court from which the first citation came and was executed upon the party.

I beg leave likewise to observe to your Lordships, that it appeared from the books that the Commissions to the Vice-Admirals of the provinces of Munster, &c., were taken out under the seal of the Admiralty Court of Ireland, on warrants from the Lords of the Admiralty, and particularly it was done so when the Duke of York was High Admiral, and I am in your Lordships judgment if it should not be so still.

To conclude, I have acted according to the uniform practice of my predecessors, in appointing deputies. In doing so I have acted, it's true, against the interest of my own Court; but it's for the public good, which I shall always prefer to my own. As I return to Ireland in a few days, I shall then send your Lordships the extracts from the books to prove the facts herein advanced. I shall never do anything I apprehend to be out of the bounds of my office, but I shall believe it to be your Lordships intentions that I should keep up the honour and dignity of the Commission you have honoured me with, by yielding up nothing my predecessors have been in possession of immemorably, till your Lordships signify your pleasure to the contrary, and if the Petitioner apprehends his rights to be encroached upon, I think (with submission) the proper way for him and me to do is to state our case, and lay it before two eminent lawyers, and then lay their opinion before your Lordships; but this and everything else I submit to your Lordships' better judgment, and shall with pleasure always follow your directions in all things. There was sometime ago a complaint given in against me as to a decree I pronounced in the case of one Captain Riley; and after they found I had sent over to your Lordships demonstrative proofs of the falsehood of every article in it, and of the justice of the decree, the complainants disappeared; now this Petitioner complains of me for doing what has been done constantly by my predecessors, and had he mentioned the thing to me, or called for a sight of the Admiralty books, he would have been satisfied of the truth of this. I hope therefore your Lordships will discountenance such complaints, and that you will order all Commissions you are pleased to order to Vice-Admirals in Ireland, to come under the seal of your Admiralty Court there, and I am, in your Lordships' judgment, if it is not as improper for the Judge Admiral of England to put his seal to such Commissions, as for my Lord Chancellor of England to interfere with what comes under the seal of the Chancellor of Ireland, your Lordships having two High Courts of Admiralty acting under you—one for England, the other for Ireland. The old age and infirmities of my predecessor encouraged people to make encroachments on the Court, which gives me a good deal of trouble in keeping up its dignity.

(Signed),

HUGH BAILLIE.

- HISTORY OF COURT AND PRIZE JURISDICTION.**
Order of Lords Commissioners of Admiralty upon Answers.
Judge Baillie.
13. ORDER of the LORDS COMMISSIONERS of the ADMIRALTY upon the foregoing Petition and Answer.
- Whereas John Love, esq., Judge of the Vice-Admiralty Court of Munster, in the kingdom of Ireland, has laid before us a Petition, setting forth "That in pursuance of a Warrant from this Board in the year 1729, he obtained a Patent for executing the office of Judge of the Court of Vice-Admiralty of the Province of Munster, and from that time hath legally and peaceably exercised the said office till in or about the month of July last, when you took upon yourself to depute the Rev. St. John Brown, a Clergyman, and others at Cork, to exercise the Office of Judge of the Admiralty for the Port of Kinsale, and Districts thereof, and also to substitute other Persons to exercise the said Office at Cork, which Ports of Kinsale and Cork are within the Province of Munster, and the Jurisdiction of the Petitioner, by which means he is obstructed in the execution of his Office, granted to him by Patent as aforesaid, and which was always exercised by him and his Predecessors, Judges of the said Court of Vice-Admiralty of Munster;" We do hereby signify to you our Disapprobation of your proceedings herein, and require and direct you immediately to recall and cancell the Deputation aforementioned, as well as all others of the like nature that you may have granted, which interfere with the Jurisdiction and Priviledges of other Judges of the Vice-Admiralty Courts in the Kingdom of Ireland, and not to grant any such Deputations to any Persons for the future. Given under our Hands the 18th of October, 1745.
- A. HAMILTON.
T. BEAUCLERK.
G. ANSON.
- By, &c., THOMAS CORBETT.
- To Hugh Baillie, esq., Doctor of Laws, (L.S.)
Judge of the Admiralty in Ireland.
- HISTORY OF COURT AND PRIZE JURISDICTION.**
Order of Lords Commissioners of Admiralty upon Answers.
Judge Baillie.

- Letter of Judge Baillie to the Lords Commissioners of the Admiralty.**
14. LETTER from HUGH BAILLIE, Esq., LL.D., Judge of the Court of Admiralty of Ireland, to the LORDS COMMISSIONERS of the ADMIRALTY respecting their order.
- SIR, London, Oct. 21st, 1745.
- In obedience to ye order of ye Lords of ye Admiralty sent me by you on Saturday, I that night wrote to ye Register of ye Court, and ordered him to recall all Comissions granted by me for Deputies in particular districts, for there may be other Comissions for Vice-Admiralties taken out as Mr. Love's it seems is, under ye seal of ye Court of Admiralty of England, and so I know nothing of ym, and therefore a general revocation of such Comissions I thought ye safest way, and if ye merchts. want to have Comissions for deputies in particular places, let ym apply to their Lordships, who will judge how far it proper to grant ym. These Comissions were a loss to our Court, because they took all causes under £50 value from us, but ye merchts. desired ym for ye advantages of trade, it being expensive to bring Trifling causes to Dublin. If their Lordships have further orders for me, please let me know, for as soon as my brother from India arrives, from Galway in Ireland, I shall go for Ireland.
- I am, sir, your most humble sert.,
(Signed), HUGH BAILLIE.
- Please Communicate ye above to ye Board.
- Letter of Judge Baillie to the Lords Commissioners of the Admiralty.**

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FOR HER MAJESTY'S STATIONERY OFFICE.

REPORT
OF
THE COMMISSIONERS
APPOINTED TO INQUIRE INTO THE
WORKING OF THE LAW
RELATING TO
LETTERS PATENT FOR INVENTIONS.

Presented to both Houses of Parliament by Command of Her Majesty.



LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
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FOR HER MAJESTY'S STATIONERY OFFICE.

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LONDON:

LETTERS PATENT.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To Our right trusty and well-beloved Councillor Edward Henry Smith Stanley (commonly called Lord Stanley); Our right trusty and well-beloved Samuel Jones Lord Overstone; Our right trusty and well-beloved Councillor Sir William Erle, Knight, Chief Justice of Our Court of Common Pleas; Our trusty and well-beloved Sir William Page Wood, Knight, a Vice Chancellor; Our trusty and well-beloved Sir William Atherton, Knight, Our Attorney General; Our trusty and well-beloved Sir Hugh McCalmont Cairns, Knight; Our trusty and well-beloved Horatio Waddington, Esquire; Our trusty and well-beloved William Robert Grove, Esquire, one of Our Counsel learned in the Law; Our trusty and well-beloved William Mathewson Hindmarch, Esquire, one of Our Counsel learned in the Law; Our trusty and well-beloved William Edward Forster, Esquire; and Our trusty and well-beloved William Fairbairn, Esquire, greeting :

Whereas an humble Address has been presented unto Us by the Knights, Citizens, and Burgesses, and Commissioners of Shires and Burghs in Parliament assembled, praying that We will be graciously pleased to issue a Commission to inquire into the working of the Law relating to Letters Patent for Inventions :

Now know ye that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed and do by these Presents authorize and appoint you the said Edward Henry Smith Stanley (commonly called Lord Stanley), Samuel Jones Lord Overstone, Sir William Erle, Sir William Page Wood, Sir William Atherton, Sir Hugh McCalmont Cairns, Horatio Waddington, William Robert Grove, William Mathewson Hindmarch, William Edward Forster, and William Fairbairn to be Our Commissioners to inquire into the working of the Law relating to Letters Patent for Inventions.

And for the better effecting the purpose of this Our Commission, We do by these Presents give and grant to you, or any Five or more of you, full power and authority to call before you such Persons as you shall judge likely to afford you any Information upon the subject of this Our Commission; and also to call for, have access to, and examine all such Books, Documents, Registers, and Records as may afford the fullest Information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And We do also give and grant unto you, or any Five or more of you, full power and authority when the same shall appear to be requisite to administer an Oath or Oaths to any Person or Persons whatsoever to be examined before you, or any Five or more of you, touching or concerning the premises.

And We do by these Presents will and ordain that this Our Commission shall continue in full force and virtue, and that you Our said Commissioners, or any Five or more of you, may from time to time proceed in the execution thereof, and of every matter

and thing therein contained, although the same be not continued from time to time by adjournment.

And Our further Will and Pleasure is that you do with as little delay as possible report to us under your hands and seals, or under the hands and seals of any Seven or more of you, your several Proceedings under and by virtue of this Our Commission, together with what you shall find touching or concerning the premises.

And We do further ordain that you, or any Seven or more of you, may have liberty to report your Proceedings under this Commission from time to time, should you judge it expedient so to do.

And We do hereby command all and singular Our Justices of the Peace, Sheriffs, Mayors, Bailiffs, Constables, Officers, Ministers, and all other Our loving Subjects whatsoever, as well within Liberties as without, that they be assistant to you and each of you in the execution of these Presents; and for your assistance in the due execution of these Presents We have made choice of Our trusty and well-beloved Edward Lloyd, Esquire, Barrister-at-Law, to be Secretary to this Our Commission, and to attend you, whose Services and Assistance We require you to avail yourselves of from time to time as occasion may require.

In witness whereof We have caused these Our Letters to be made Patent.
Witness Ourselves at Westminster, the First Day of September, in the Twenty-sixth Year of Our Reign.

By Warrant under the Queen's Sign Manual.

C. ROMILLY.



R E P O R T.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY,

WE, the Commissioners appointed to inquire into the working of the Law relating to Patents for Inventions, humbly present to Your Majesty the results of our investigation, in this our Report.

Our attention was, at the outset, directed to the consideration of those defects in the working of the present system which, since the amendment of the law in the year 1852, had become so generally felt, as to have given occasion for the institution of the present inquiry.

Of these, the most important appear to be the protracted litigation and consequent expense, which in almost every case result from the present mode of trying questions of Patent Rights. Two instances were stated to us in evidence, in which the law expenses of plaintiff and defendant together amounted to 26,000*l.* and to 15,000*l.* respectively; the course of litigation began in the former case in 1857, and may at the present moment be still further protracted, in the latter it lasted from the year 1842 until 1855. It may be added that since the Commission met, a single case has occupied the attention of the Court of one of the Vice-Chancellors for upwards of thirty days.

The multiplicity of Patents, arising from the facility and diminished cost of obtaining them, has been brought to our notice as another serious cause of complaint against the present law. It appears from the tables compiled at the Great Seal Patent Office, that the average number of Provisional Protections annually granted is now about 3000, while the Patents sealed exceed 2000, and that an increase on this average may be expected. The evil arising from this multiplicity of monopolies is alleged to be of a twofold nature. In the first place, that of the existence of a number of Patents for alleged inventions of a trivial character; in the second place, that of the granting of Patents for inventions which are either old or practically useless, and are employed by the patentees only to embarrass rival manufacturers. Thus in either case that monopoly, one of the main grounds of defence of which is the stimulus it offers to invention, obstructs instead of aiding, the progress and improvement of arts and manufactures.

On the other hand, we have been pressed with the opinion that the cost of obtaining Letters Patent, together with the fees payable on their continuance up to the full term of 14 years, although reduced to 175*l.*, payable by instalments, of which the first does not exceed 25*l.*, is still so high as to be an insuperable bar to the poor inventor in obtaining the protection to which he is fairly entitled.

Again, it is claimed by inventors on the ground of public policy, that the tax imposed on the granting of Patents, and thereby indirectly, on inventors, should be no more than sufficient to cover the expenses of the Great Seal Patent Office, and of the necessary libraries and museums connected with it. At the present date, it appears that the accumulation of surplus fees (after allowing for all such expenses), since the year 1852, amounts to more than 200,000*l.*, and that for future years, the annual surplus upon the present footing may be estimated at 40,000*l.*

With such considerations before us, and knowing that from the nature of the subject the remedies suggested would vary within very wide limits, we determined, as the basis of our inquiry, to draw up a series of questions which should invite suggestions upon those points of the present system where amendment seemed to be required.

The following questions, while they formed to some extent, the groundwork of our oral examinations, have been widely circulated among the Chambers of Commerce in the principal cities and towns of this kingdom, and have been submitted to such other societies and persons as seemed to us to be likely to afford assistance in investigating the subject before us.

1. Should the cost of obtaining Letters Patent be diminished, or increased; if either, to what extent; and should the payment be made in one sum, or by annual, or other instalments?
2. Does the present mode of obtaining Patents appear to you satisfactory? Is it your opinion that there ought to be a preliminary investigation of a more searching character than that which at present takes place? If so, how should the tribunal be constituted before which such investigation shall be conducted, and should the judgment of such tribunal be final?

3. Should the investigation be ex parte or public and subject to opposition? Should the present practice as to caveats be adhered to?
4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?
5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?
6. Should greater facilities be provided for the repeal of invalid Patents?
7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by Patentees?
8. Should the granting of Licences in your opinion be made compulsory, and can you suggest any practicable method by which this should be done?
9. Do you think it expedient that Patents should be granted to importers of foreign inventions?
10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?
11. Is it expedient to make any, and if so, what alteration in the law relating to prolongations and confirmations?
12. Is it expedient to make any, and if so, what alteration in the law respecting disclaimers and memoranda of alterations?

We have thought it most convenient, in considering the evidence before us, to arrange it under the following heads:—

I. A statement of the successive stages of procedure in applying for the grant of Letters Patent; of the fees payable at each stage, and during the continuance of the term of 14 years; and of the procedure on Disclaimers, Memoranda of Alterations, Confirmations, and Prolongations.

II. Opinions on the question whether it is or not expedient that Patents should be easily and cheaply granted.

III. Objections to the present mode of trying cases of Patent Rights, and alterations which may be suggested.

IV. The various opinions on the working of the system, as regards Disclaimers, Memoranda of Alterations, Confirmations, and Prolongations, and on the propriety of granting Patents to importers of foreign inventions, and to foreign inventors.

The evidence on these latter branches of our inquiry, as well oral as written, may be classified under three general heads:—1st, that of judges and members of the legal profession more especially acquainted with this branch of the law, and of the gentlemen officially engaged in the working of the present system; 2ndly, that of Patent agents; 3rdly, that of engineers and manufacturers, many of whom represent in their own persons the conflicting interests of the inventor and of the user of inventions.

I.

The following Table shows the general results of applications for Patents under the present system, from its commencement, on the 1st October 1852, to the end of the year 1863.

—	1852. (3 Mths.)	1853.	1854.	1855.	1856.	1857.	1858.	1859.	1860.	1861.	1862.	1863.	Totals.
Applications - - -	1,211	3,045	2,764	2,958	3,106	3,200	3,007	3,000	3,196	3,276	3,490	3,309	35,562
Ditto with Provisional Specifications - - -	1,178	2,994	2,722	2,900	3,064	3,164	2,956	2,953	3,145	3,228	3,437	3,252	34,993
Ditto with Complete Specifications - - -	33	51	42	58	42	36	51	47	51	48	53	57	569
Ditto for English inventions - - -	1,014	2,439	2,397	2,133	2,565	2,399	2,299	2,455	2,564	2,392	2,545	2,421	27,623
Ditto for foreign inventions - - -	197	606	367	825	541	801	708	545	632	884	945	888	7,939
Provisional protections - - -	1,176	2,972	2,704	2,892	3,052	3,146	2,949	2,940	3,125	3,178	3,388	3,199	34,721
Notices to proceed - - -	973	2,363	2,050	2,271	2,242	2,294	2,174	2,193	2,318	2,273	2,439	2,361	26,051
Oppositions entered - - -	69	131	67	49	61	54	48	43	38	30	15	20	625
Hearings of oppositions before Law Officers - - -	65	119	61	48	56	48	44	43	34	28	10	20	576
Warrants granted - - -	918	2,190	1,878	2,047	2,097	2,031	1,954	1,979	2,065	2,049	2,192	2,095	23,495
Warrants refused - - -	9	23	11	8	12	10	7	2	7	9	2	3	103
Oppositions to sealing entered - - -	4	5	2	8	4	3	1	5	2	2	1	1	38
References to Law Officers by Lord Chancellor - - -	1	1	1	1	1	1	—	—	1	1	—	—	8
Hearings before Lord Chancellor - - -	4	3	2	5	2	3	1	3	1	2	—	1	27
Patents sealed - - -	914	2,185	1,876	2,044	2,094	2,028	1,954	1,976	2,061	2,047	2,191	2,094	23,463
Specifications filed in pursuance of Letters Patent - - -	865	2,071	1,774	1,938	2,010	1,943	1,878	1,900	1,966	1,969	2,105	2,011	22,430
Patents void for want of Specifications filed - - -	23	74	66	55	47	52	31	39	47	35	34	28	531
Complete Specifications filed with petition on which Patents have been sealed - - -	26	40	36	51	37	33	45	37	48	43	49	53	492
Ditto lapsed by reason of non-sealing of Patent - - -	7	11	6	7	5	3	6	10	3	5	4	4	71
Stamp duties of 50 <i>l</i> . paid before the end of third year - - -	310	621	513	551	573	584	539	542	579				
Patents lapsed at end of third year - - -	581	1,490	1,297	1,438	1,474	1,392	1,394	1,395	1,435				
Stamp duties of 100 <i>l</i> . paid before the end of the seventh year - - -	102	205	140	195	214								
Patents lapsed at end of seventh year - - -	208	416	373	356	359								

The first step on the application for Letters Patent is to lodge at the Great Seal Patent Office the Petition, which discloses only the title of the invention; the Provisional Specification, "describing the nature of the invention," and a solemn declaration by the applicant that he believes himself to be the true and first inventor. These documents are referred to one or other of the Law Officers of the Crown, whose duty goes no further than to decide whether or not the nature of the invention is sufficiently described by the Provisional Specification. By Sect. 8 of the Patent Law Amendment Act, 1852, the Law Officer is at liberty to call, in aid of his decision, mechanical or scientific assistance, and to order the payment of such fees as he may think fit to the persons so called in. This power is, however, only occasionally exercised. The Law Officer upon being satisfied of the sufficiency of the Provisional Specification grants his certificate, allowing provisional protection. The granting of the certificate is then advertized in the London Gazette, and in the Journal of the Commissioners of Patents.

This investigation before the Law Officer may, however, be avoided by lodging in the first instance a Complete Specification, "particularly describing the nature of the Invention, and in what manner the same is to be performed;" in this case the certificate issues as of course.

Within four months from the date of his application, notice must be given by the applicant of his intention to proceed with his Patent; advertisements of this intention, stating nothing more than the title of the Patent, are then officially issued, and a period of 21 days is allowed, within which objections to the grant may be lodged at the Great Seal Patent Office. The case between the applicant and the objector is then heard by the Law Officer, the parties usually appearing separately, the Provisional Specification being in practice regarded as a secret document. When, however, from the mode of conducting the opposition, the Law Officer finds that the nature of the new invention has become known to the opponent, he sometimes uses his discretionary power of hearing the parties in the presence of one another.

Cases have sometimes occurred in which the Law Officer has refused his fiat, on the general ground of want of novelty. This, however, has only been where it was brought to his knowledge that the invention claimed was clearly not new. For from the fact that no appeal lies from his refusal of the fiat, the inclination has always been to grant the application where a fair doubt exists.

The applicant, if successful upon this hearing, obtains from the Law Officer his fiat for the warrant; but the objector has still a right (by entering a caveat at the Great Seal Patent Office) to appeal to the Lord Chancellor against the issue of the fiat.

The next stage is the application for sealing the Letters Patent, which must be made within three months from the date of the warrant. Here there is again an opportunity of opposing the grant. Notice of objection must be lodged as at the former stage, and the parties are then heard before the Lord Chancellor, who has the power (occasionally, though not often exercised) of referring the matter to the Law Officer for his opinion. The decision of the Lord Chancellor is, in any case, final; the Patent, if successful, being sealed and dated as of the date of application.

The following is a table of the fees payable up to the grant of Letters Patent:—

On lodging Petition	-	-	-	-	£5
For Certificate of Notice to proceed	-	-	-	-	5
On Warrant	-	-	-	-	5
On Sealing	-	-	-	-	5
On Specification	-	-	-	-	5
Total	-	-	-	-	25

In accordance with the rule that the provisional protection lasts for six months only from the date of application, or for such further time as the Lord Chancellor may, upon petition of the applicant, in his discretion, allow, the Complete Specification must be filed within that period, or within such further time as may have been allowed. If this be not done, the protection ceases and the grant, if made, becomes void.

In order to maintain the validity of the grant, the Patentee must, before the end of three years from the date, pay an additional sum of 50*l.*; and before the end of seven years, the further sum of 100*l.*, thus making the whole cost in fees, 175*l.* About two-thirds of the Patents granted become void at the expiration of the third year, for non-payment of the fee of 50*l.*, and less than one-tenth are continued beyond the seventh year.

The mode of obtaining the repeal of Letters Patent is by writ of *scire facias*. Since the alteration of the practice in 1852, by which the Patentee was allowed the right of

replying, this mode of proceeding, at no time common, has fallen into disuse, as will be seen by the following table :—

Number of Patents repealed by *scire facias* from 1617 to October 1852 - - 19
 Number of Patents repealed by *scire facias* from October 1852 to December 1861 - None.

The Patentee may at any time during the continuance of his grant, by petition to the Commissioners of Patents, apply for leave to disclaim a part of the title or of the Specification of his Patent, or to alter either of them, but so that neither disclaimer nor alteration shall extend the exclusive right. The matter is then referred to the Law Officer, and on his fiat the disclaimer or memorandum of alteration is filed at the Great Seal Patent Office, with the Specification. Annexed is a table showing the number of these applications enrolled during the last 11 years :—

NUMBER OF DISCLAIMERS and MEMORANDA of ALTERATIONS filed during the last Twelve Years.

Old Law.										
Year.				Number.	Year.				Number.	
1850	-	-	-	-	18	1855	-	-	-	12
1851	-	-	-	-	22	1856	-	-	-	8
1852 (9 months)	-	-	-	-	18	1857	-	-	-	13
New Law.					1858	-	-	-	-	9
1852	-	-	-	-	7	1859	-	-	-	6
1853	-	-	-	-	15	1860	-	-	-	2
1854	-	-	-	-	9	1861	-	-	-	3

In cases where, subsequently to the taking out of a Patent, it is discovered by the Patentee that some part of the invention for which such Patent is claimed, already exists in a printed form, but having long escaped public notice, has become obsolete, and where a re-discovery by the Patentee has taken place, application may be made to the Judicial Committee for confirmation of the Patent, notwithstanding want of novelty in the invention for which it is claimed.

The same mode of procedure is followed for the purpose of obtaining prolongation of the full term of 14 years, the Judicial Committee having power to recommend to Your Majesty the extension of the original term for a further period of 14 years. The usual length of time of extensions, however, is not more than from three to six years. Advertisements of the application for prolongation are inserted in certain local and metropolitan newspapers, and objections are taken by entering a caveat. The objector must lodge his grounds for opposition in writing, and may appear at the hearing of the application in support of them. In all cases the Law Officer attends at this hearing to watch the case on the part of the public, and has a right to take part in opposition to the extension.

Three general rules may be laid down, by which the Judicial Committee have been guided in recommending prolongations. The Patentee must show, first, that the invention is of great ingenuity and merit; secondly, that it is of considerable public utility; thirdly, that, in spite of his reasonable exertions to promote the invention, the remuneration he has received from it is inadequate.

The following table shows the number of confirmations and prolongations applied for and granted from the year 1835 to 1862 :—

For Prolongation.						
Granted	-	-	-	-	-	62
To Patentees	-	-	-	-	-	48
To Assignees	-	-	-	-	-	14
Dismissed	-	-	-	-	-	46
On application of Patentees	-	-	-	-	-	28
„ „ of Assignees	-	-	-	-	-	18
Withdrawn	-	-	-	-	-	29
						137

For Confirmation.						
Granted	-	-	-	-	-	1
To Patentee	-	-	-	-	-	1
Dismissed	-	-	-	-	-	6
Application of Patentees	-	-	-	-	-	5
„ „ Assignees	-	-	-	-	-	1
						7

Total 144
 Lodged and pending in 1863, 8 cases.

II.

On the question whether Patents should be made easy or difficult to obtain we find a division of opinion; some witnesses denying, others affirming the existence of public inconvenience from an indefinite multiplication of these temporary monopolies.

In the opinion of the former class, such inconvenience either does not exist at all, or, if it is in any slight degree felt, is so exceptional as to require no special legislation. They maintain that, as a rule, Patents which are either frivolous in their character, or questionable on the ground of want of novelty, are not supported by the Patentee when exposed to the test of payment for renewal, or of the expense of litigation. They contend that without the protection given by a Patent, many inventions useful in character though not of primary importance would either not be made, or being made would remain undivulged; that to decide beforehand with certainty, on the value or worthlessness of an invention is seldom possible; and that the evil remedies itself, inasmuch as worthless Patents are seldom continued beyond the period of three years.

The majority of witnesses, however, decidedly affirm the existence of practical inconvenience from the multiplicity of Patents. It is clear that Patents are granted for matters which can hardly be considered as coming within the definition in the Statute of Monopolies, of "a new manufacture." It is in evidence that the existence of these monopolies embarrasses the trade of a considerable class of persons, artisans, small tradesmen, and others, who cannot afford to face the expense of litigation, however weak the case against them may seem to be; and a still stronger case is made out as to the existence of what may be called obstructive Patents, and as to the inconvenience caused thereby to manufacturers directly, and through them to the public.

From a paper drawn up at our request by the Superintendent of Specifications, it appears that upon examining into the first 100 applications for Patents in each of the years 1855, 1858, 1862, the results were, in his opinion, that in 1855, 26 were manifestly bad for want of novelty, and 6 more partly so; in 1858, 14 manifestly old, and 1 partly so; in 1862, 7 were old, and 1 would probably turn out to be so. An instance, illustrating the mode in which these Patents are used, is given in evidence, where royalties had been demanded, and in most cases obtained, by the Patentee of a machine, which turned out upon investigation to be identical with one which 19 years before had been well known and publicly used.

Other instances will be found in the evidence of particular manufactures and branches of invention which are so blocked up by Patents, that not only are inventors deterred from taking them up with a view to improvement, but the manufacturer in carrying on his regular course of trade, is hampered by owners of worthless Patents, whom it is generally more convenient to buy off than to resist. The evil also results in another practice having the same obstructive tendency, namely, that of combination amongst a number of persons of the same trade to buy up all the Patents relating to it, and to pay the expense of attacking subsequent improvers out of a common fund. From a comparison of evidence, it cannot be doubted that this practice prevails to a considerable extent. We must also conclude that when the obstruction is not to be got rid of without the expense and annoyance of litigation, in a large majority of cases the manufacturer submits to an exaction, rather than incur the alternative.

We desire to call special attention to the evidence given by the First Lord of the Admiralty, and by various witnesses on behalf of the War Department, showing the embarrassment which has been caused to the naval and military services by the multitude of Patents taken out for inventions in use in those departments. It appears to us necessary for the public service that for the future no Patent should be granted without the insertion of a proviso allowing to the Crown the unrestricted use of the invention therein patented, the compensation for such use to be fixed by the Treasury.

Having in view the several opinions thus shortly adverted to, we have to consider the evidence:—

- 1st. As to the cost of obtaining and renewing Letters Patent, and as to the mode of payment.

Notwithstanding the prevalence of an opinion that Patents may be and are unduly multiplied, a very small minority is in favour of increasing the cost of obtaining them: of those who have given evidence in this sense, some object altogether to the granting of Patent rights, and therefore consistently desire that if not abolished they should be reduced in number by any practicable method; others contend that the mere fact of having a larger payment to make, would render projectors more careful not to incur

expense on behalf of inventions of doubtful utility and novelty. Many witnesses think that the scale of payment was, on the revision of the law in 1852, fixed too low, but do not consider that it could now be prudently raised.

Objection is taken by a third class of witnesses, to the payments of 50*l.* and 100*l.* on the renewal of the Patent at the end of the third and seventh years respectively. It is alleged that the periods of payment are fixed too early in the duration of the monopoly; that many valuable Patents have, even in their seventh year, failed to become profitable from the difficulty of inducing manufacturers to adopt new methods of working, and that in such cases the Patentee is either unable to procure the necessary sum or is unwilling to risk the additional expense, and therefore allows his Patent to drop; that thus the system inflicts a hardship on the inventor, and retards the general progress of improvement. Several modifications of the law are proposed, one alternative being to reduce these payments, another to postpone them till the end of the 5th and 9th years respectively. It is also suggested that some inconvenience arises from the fact that on nonpayment of the renewal fees the Patent becomes at once void, and that much of the hardship complained of would be obviated, if the Lord Chancellor were empowered to allow the continuance of the Patent, on payment being made, though after the proper time, provided the Patentee were able to prove that the delay had arisen from accident or from a mistake not involving gross negligence.

Among the engineering and manufacturing class there seems to be some inclination to urge the adoption of a system of annual payments, on the ground that the burden would thus be more equally distributed over the whole period of the Patent, and that the rich and the poor inventor would thereby be brought upon more equal terms, while there would be a constant tendency on the part of Patentees to allow an unremunerative Patent to drop at once.

The propriety of a system of annual payments is however denied by the greater number of those who have given evidence before us, who rely on their experience of the difficulty that is now constantly found in getting Patentees to ensure the renewal of their Patents by the necessary formalities; they maintain that this difficulty would be the source of still greater evil if the same process had to be gone through from year to year.

Whatever be the scale of payment adopted, we find a very general expression of opinion that the price to be paid by inventors, in the aggregate, should not be more than sufficient to provide for the expenses of the Patent Office, Library, and Museum; and that these should be maintained in the highest state of efficiency, so as to give inventors the utmost facility for ascertaining the status of every branch of invention.

2nd. As to the introduction of a system of preliminary examination, its character, and by whom it should be conducted.

It is urged in opposition to any further course of preliminary examination than that which is at present pursued, first, that the principle of our law requires the inventor himself to make such an examination, inasmuch as he takes out a Patent at his own risk; and next, that it could not be conducted in a manner free from objection. That if it were *ex parte*, the interests of the public would be no better protected than they now are; if subject to opposition, the inventor would be deprived of the protection of secrecy, while he would in fact be subjected to a premature trial of his Patent; and that such a trial, even if it resulted in his success, would be no protection to him against future litigation.

That if the result of such an examination was to be final, the examining body would seldom undertake the responsibility of refusing a Patent; if subject to appeal they would, on the hearing of that appeal, be placed in the position of defendants. That on the whole the result would be, increased expense and delay to the Patentee, with no greater security either to him or to the public. These opinions, though proceeding from a limited number of witnesses deserve consideration from the knowledge and experience of those by whom they are entertained.

On the other hand there is a very strong expression of opinion, and one not confined to any particular class of persons, in favour of some more strict preliminary examination. It is suggested by a few of these, but only by a few, that such an examination ought to embrace an inquiry not only into the novelty but into the utility of the Invention. It is admitted that the inquiry as to novelty must be limited to matter which is to be found in a printed form, and should not extend to oral testimony as to priority of user.

It is proposed that such an examination be conducted by the members of a mixed board of examiners, consisting of one or more barristers, and a proportionate number of practical and scientific men; and that this board should, unless forming part of or acting in concert with some special tribunal to be appointed for the trial of Patent cases, be

assistant and subordinate to the Law Officers of the Crown, whose official duties in respect of Patents should otherwise remain unaltered. That the result of this examination should be either a decision subject to one final appeal; or a certificate which, whether favourable or unfavourable, should be appended to the Specification.

The general opinion seems to be that the interest of the public would be sufficiently protected at the hands of the examiners, and that at any rate, the result would be to exclude many applications which, now of necessity, pass without comment.

With respect to caveats, it is held by a majority of witnesses that the present system should remain unaltered, subject to such modifications in practice as might be required by the institution of preliminary investigation.

3. As to the propriety of making licences compulsory, or of requiring user within a given period.

As against these propositions it is contended by some witnesses that Patentees are, as a rule, willing to grant licences to work their inventions on reasonable terms. To do so is obviously their interest; and it may be assumed that what is men's interest to do will generally be done. Exceptions may occur, but these, it is asserted, will be insufficient in number and importance to justify a peculiarly sweeping interference with rights to which the law has assigned the character of property.

Apart from the above considerations, the practical difficulties appear to be regarded as all but insuperable. No rule can be laid down for estimating the value of a Patent, or the amount of charge which may be reasonably imposed on those using it. These will vary in every instance: and it is manifestly futile to require the inventor to grant a licence when applied to, unless some provision be made for determining the price to be paid. In the absence of such provision, a prohibitory price would render the law inoperative. But on this question of price individual opinions must be expected to vary widely; and it is impossible to suppose that any system of arbitration would prove satisfactory, where neither precedent, nor custom, nor fixed rule of any kind could be appealed to on either side.

4. As to the repeal of invalid Patents.

It appears to be generally felt, more especially by those who are immediately concerned in managing the litigation of Patent rights, that some proceeding, more simple in form, and therefore more expeditious, should be adopted for the repeal of invalid Patents. That this might either be by petition to Your Majesty in Council, or by motion in a Court of Equity. The most serious objection to the present mode of proceeding seems to be, that while a Patentee, if he maintains his Patent, will only get such costs as may be covered by the bond which is required from the petitioner against him, the petitioner, on the other hand, if he succeeds in his object of upsetting the Patent, will get no costs.

As regards the issues to be tried, it has not been shown to us that any alteration in the form of the proceeding for repeal would materially shorten them, or diminish the expenses of the trial.

III.

The evidence before us shows an almost universal feeling of dissatisfaction with the present mode of trying questions of Patent right, while there are many and various proposals for the constitution of a tribunal which should be more expeditious and less expensive. The principal fault of the system lies in this: that the jury by whom the case is tried, seldom possess even so much scientific knowledge as is necessary to enable them to understand the evidence. Advantage is constantly taken of this deficiency; first, in a subtle and vague drawing of Specifications; again, by an artful generality in the form of framing the issues to be tried; lastly, on the trial, by the introduction of a cloud of scientific evidence, to perplex rather than to explain, the true points at issue. It is possible that these difficulties might to some extent be obviated, as has been suggested to us, by requiring a greater strictness in drawing the Specification and claim of the Patentee, or by a more perfect scheme for settling, in the presence of the Judge, the issues to be tried; but it is almost without exception admitted that a radical remedy is only to be found in reforming the constitution of the tribunal itself.

The main point in doubt is, whether this reform should go to the extent of constituting a special Court for the trial of Patent cases, or whether the existing jurisdictions of the Courts of Law and Equity should be maintained in a modified form. The objections to a special Court are various and strong. In the first place, the want of sufficient business to occupy its time fully. Secondly, that on trials of Patent cases, questions are frequently arising which require an extended knowledge of other branches of the law; and that a Judge selected for his special acquaintance with mechanical and

scientific topics, and one who in his judicial capacity was principally engaged in the consideration of such questions, would not be so competent to deal with the whole subject-matter of the case as one by whom all branches of our law were in turn handled. Thirdly, that such a constitution of the Court would render it extremely difficult, if not impossible, to secure an effectual appeal. We do not find that these views (with the exception, perhaps, of the first) have been met by arguments of equal weight. Assuming, therefore, that it would not be advantageous to constitute a special Patent Court, we have to consider what has been proposed in aid of the existing jurisdictions.

The general proposal is that the Judge, on trial of a Patent case, should either be aided by scientific assessors, or that the case should be tried by a jury composed of from five to seven scientific persons. The latter plan does not appear to us to be wholly satisfactory, owing to the difficulty there would always be in getting a sufficient number of scientific men to compose a jury, sufficiently competent and unbiassed.

The conclusion which we have drawn from the evidence is, that a Court might be satisfactorily formed on the former plan, taking as a general model of its constitution Your Majesty's High Court of Admiralty, assisted by the Trinity Brethren. It is difficult accurately to estimate the weight of evidence as to whether those assessors should act judicially, or merely by way of instruction and advice to the Judge; but the balance seems rather to incline to the latter view, which would place them in a very similar position with the assessors to the High Court of Admiralty. There is again a great variety of opinion as to the mode in which the assessors should be chosen. It is said, on the one hand, that they might be selected by the Judge, or by the parties, with a reference, in case of dispute, to the Judge, from scientific men generally; with respect to this latter proposal, the only doubt is, whether considering the high value which is put upon scientific evidence, men of sufficient eminence would be induced by any such fee as the Court would pay to give up either their usual avocations or the chance of being employed by one or other of the parties to the suit. On the other hand, if such assessors are to be a permanent and independent body, there will be a like difficulty in providing for payment of sufficient salaries to secure the services of scientific men numerous enough to give the opportunity of selection for the various classes of cases, and eminent enough in their professions to be willingly accepted by the parties.

It seems to be generally thought that the assistance of an ordinary jury in Patent cases is not requisite; there is, however, a certain amount of unwillingness to give up that which is considered by many the safest form of tribunal for the weighing of facts and probabilities; it has, therefore, been suggested that the employment of a jury might be at the joint request of the parties or at the discretion of the Judge.

We have been informed that no difficulty would be found in setting apart a Court for the trial of Patent cases, and in providing for the attendance in rotation of one of the Judges of the Courts of Law and Equity.

IV.

1. As to granting Letters Patent to importers of foreign inventions, and to foreigners.

It has long been the practice, founded on judicial decision, to consider that the use or publication of an invention abroad did not deprive that invention of the character of "a new manufacture within this realm." It appears to us, and is generally admitted in the evidence that the present facilities of communication subsisting between all parts of the world have done away with the only valid reason for such a construction of the words of the Statute of Monopolies. The object of allowing such Patents might fairly be, in an age of slow international communication, to encourage enterprising persons to go in search of and to introduce to this country useful processes employed abroad but not otherwise likely to be adopted here, for the want of which we should long have been behind other nations. It does not, however, seem worth while to continue the same facilities now, when foreign inventions are most frequently patented in this country and in their native land simultaneously; especially, as we are well informed, that one result of the practice is to encourage unscrupulous persons to steal the inventions of foreigners and to run a race with the legitimate owner to get them patented here.

The general opinion seems to be in favour of granting Patents to foreigners or to their agents or nominees in this country. By some persons it is proposed to limit the grant to nations of those countries whose Governments allow the reciprocal privilege to Your Majesty's subjects. And further, to impose as a condition that the invention be worked or licences granted for working it in this country, following the system which prevails generally on the continent.

2. As to Confirmations.

With a single exception, and that merely as a statement of opinion, unsupported by argument, we find no suggestions made to us with a view to the alteration of the present system on this point. We find that only seven applications have been made for Confirmation of a Patent under 5 & 6 Wm. IV., c. 83. s. 2., and only one of such applications has been acceded to. We see no reason for retaining a power of which no practical use is made.

3. As to Prolongations.

We do not find that the witnesses, with one exception, complain of the existence of Prolongations, this may, however, be accounted for by their extreme rarity.

A careful consideration of the evidence given by the Clerk to Your Majesty's Privy Council leads us to the opinion that Prolongations should not be in future granted.

The power of granting them is in its nature arbitrary, and it does not seem just that the public should be excluded for a term of years from the use of an invention, which in the ordinary course of law would otherwise become public, simply because the inventor has reaped from it a smaller profit (possibly through his own want of business habits) than he thought himself entitled to expect. The uncertainty moreover whether an application for Prolongation will or will not be granted is an evil to all parties concerned.

4. As to Disclaimers and Memoranda of Alterations.

It has been stated to us that the former of these proceedings sometimes results in the enlargement of the Patentee's rights, and that more strictness ought therefore to be exercised in allowing them.

With respect to Memoranda of Alterations, we do not find that any serious objection is taken to a continuance of the present system. It is indeed suggested that, following the French Law, Patents of Addition should be allowed. No reasons, however, are given in support of this view.

We have thus stated to Your Majesty the general result of the evidence before us, and the conclusions to which we have come after considering it.

We now humbly submit to Your Majesty the following recommendations, which are founded on these conclusions :—

RECOMMENDATIONS.

1. Your Commissioners do not find that the present cost of obtaining Letters Patent is excessive, or the method of payment inconvenient; they do not therefore recommend any alteration of the present system on those points; but they think that Patent fees should not be made to contribute to the general expenditure of the State until every reasonable requirement of the Patent Office has been satisfied.

2. They are unable to recommend a preliminary investigation into the merits of the invention for which a Patent is claimed; but they advise that a careful inquiry be instituted under the direction of the Law Officers of the Crown as to whether there has been any previous documentary publication of the invention, either by grant of Letters Patent, or otherwise; and if such publication have taken place, that the Patent shall be refused.

No evidence other than such documentary evidence should be admissible, and the reasons for the refusal to grant the Patent should be certified by the Law Officers; an appeal from their decision should lie to the Lord Chancellor.

3. Your Commissioners are of opinion that the present mode of trying the validity of Patents, is not conducted in a satisfactory manner. That such trials ought to take place before a Judge sitting with the aid of scientific assessors, but without a jury, unless at the desire of both parties to the suit or action. That such assessors ought to be selected by the Judge in each case, and the remuneration to be paid them be included in the costs of the suit or action, and provided for in such manner as the Judge shall direct.

That no special Judge be appointed for the trial of Patent cases, but that the Judges of Law and Equity be empowered to make rules by which one Court should sit for trial of Patent cases exclusively. That on such trial the Judge, if sitting without a jury, decide questions of fact as well as of law.

4. That the granting of licences to use patented inventions ought not to be made compulsory.

5. That Patents ought not to be granted to importers of foreign inventions.

6. That in no case ought the term for which a Patent is granted to be extended beyond the original period of 14 years.

7. That in all Patents hereafter to be granted a proviso shall be inserted to the effect that the Crown shall have the power to use any invention therein patented without previous licence or consent of the Patentee, subject to payment of a sum to be fixed by the Treasury.

8. While, in the judgment of the Commissioners, the changes above suggested will do something to mitigate the inconveniences now generally complained of by the public as incident to the working of the Patent Law, it is their opinion that these inconveniences cannot be wholly removed. They are in their belief inherent in the nature of a Patent Law, and must be considered as the price which the public consents to pay for the existence of such a law.

(Signed)	STANLEY.	(L.S.)
	OVERSTONE.	(L.S.)
	W. ERLE.	(L.S.)
	W. P. WOOD.	(L.S.)
	H. M. CAIRNS.	(L.S.)
	H. WADDINGTON.	(L.S.)
	W. R. GROVE.	(L.S.)
	W. E. FORSTER.	(L.S.)
	WM. FAIRBAIRN.	(L.S.)

EDWARD LLOYD,
29th July 1864.

REPORT OF MR. HINDMARCH.

MAY IT PLEASE YOUR MAJESTY,

As one of the Commissioners appointed to inquire into the working of the law relating to Letters Patent for inventions I humbly crave leave to report to Your Majesty what I deem to be the results of the inquiry into that subject directed by Your Majesty.

I concur in some but not in all of the recommendations contained in the Report made to Your Majesty by the other Commissioners, and it appears to me that the law relating to Patents requires amendment in several other particulars not mentioned in that Report.

I concur in the first recommendation in the Report with respect to the cost of obtaining Letters Patent; but I think that the mode of granting Patents for inventions requires amendment.

It appears to me that the law is at present defective in making no provision for an appeal against the decision of a law officer adverse to an applicant for Letters Patent, and I beg leave to recommend that when the decision of a law officer is adverse to a petitioner he should have the same right of appeal as a person who fails in an opposition, so that the parties may be placed upon an equal footing.

Specifications of inventions are frequently prepared in such a manner as to occasion great difficulty in construing them and in ascertaining the nature and extent of the claims of invention which they are intended to make. And from this cause the cost of litigating Patent rights is often greatly enhanced.

There is too much reason for believing that Specifications are frequently thus prepared with a fraudulent object. A Specification ought to define the invention intended to be comprised in a Patent so as to enable any person of ordinary skill and intelligence upon reading it to ascertain without difficulty the nature and extent of the right conferred by the Patent. If an alleged invention cannot be so described, it is one which (if it deserves to be called an invention) ought not to be made the subject of a Patent.

I recommend that no Patent should be granted for an invention until a Specification of it containing a clear and distinct statement of the claim or claims made by the inventor has been filed in the Patent Office, and that the sufficiency of all claims in Specifications should be ascertained and certified by competent persons appointed to perform that duty.

It appears to me that any official inquiry into the novelty of an invention sought to be made the subject of a Patent must necessarily be incomplete and unsatisfactory. To institute such an inquiry even in an imperfect manner would occasion a considerable amount of expense to the public, and I think it better to adhere to the present practice under which the responsibility of inquiring into the novelty of an invention sought to be patented is thrown upon the applicant who alleges his invention to be new.

According to the present law, an application for a Patent is refused if a party opposing the grant makes it clear that the invention was not new at the date of the application, or that the applicant was not then the first and true inventor, but in doubtful cases the practice is to grant the Patents, there being at present no means of trying the rights of the parties in a satisfactory manner. I submit that it would be an improvement if, when there is a disputed state of facts with respect to the right of a petitioner to an invention which he claims, the Lord Chancellor were to be authorized to direct the question in issue to be tried between the parties before the grant of any Patent for the invention.

The form of a Patent might be advantageously shortened, and in order to effect that object many of the provisions usually contained in Patents for inventions might be made applicable to them by express enactment, and I recommend that every Patent should be printed and issued, together with a printed copy of the Specification of the invention to which it relates.

I concur in the statement in the third recommendation contained in the Report of the other Commissioners, that the present mode of trying questions of fact respecting the validity of Patents is not satisfactory, and I think that the same observation is applicable to the manner in which questions respecting infringements of Patents are tried.

The evidence given before the Commissioners induces me to recommend that such questions should be tried by a judge or judges, aided (when deemed necessary) by scientific assessors, but without a jury unless required by both parties to the suit.

And I concur with the other Commissioners, that it is desirable that all the judges of the existing courts of law and equity should be made judges of one and the same court, which I think should be a court both of law and of equity, for the determination

of all matters in dispute relating to Patents, with all the powers of the existing courts respecting such matters, and I recommend that the jurisdiction of the court should extend to the whole of the kingdom.

But without some addition to the number of the judges it will be found impracticable to obtain the speedy and satisfactory determination of disputes respecting Patent rights now desired by the public.

The surplus revenue derived from Patents is much more than sufficient to pay the expense consequent upon the institution of such a court as above mentioned, with any additional judge or judges which the business of the court may require, and if any additional judge of that court shall be appointed, the objection to having a judge who confines his attention to a limited class of subjects might be obviated by calling upon him to perform other duties similar to those performed by the other common law and equity judges.

Patent rights are of limited duration, and suits respecting them in the ordinary tribunals of the country have frequently continued until the expiration of the terms for which they were granted. To prevent this evil, I beg leave to recommend that in Patent suits there should be an appeal from the decisions of the judges trying the causes to some of the other judges of the court, and from their decisions to the House of Lords, but no other appeal.

I concur in the fourth recommendation of the Report of the other Commissioners, respecting the granting of licences, and also in the fifth recommendation, that Patents ought not to be granted to the importers of foreign inventions.

But I am unable to concur in the sixth recommendation in the Report, that in no case ought the term for which a Patent has been granted to be extended beyond the original period of 14 years.

It is well known to be the policy of the law to encourage the invention of novelties and improvements in the production of useful manufactures by grants of temporary exclusive privileges to the inventors, by whom the knowledge of them shall be first given to the public. The term of 14 years by the Statute of Monopolies prescribed for the duration of the grants of such privileges appears to be amply sufficient in the greater number of cases in which inventors are to be rewarded by grants of Patent rights. But it cannot with fairness be alleged that the grant of such a term must therefore, in every case, be deemed to be a sufficient reward to an inventor however valuable his invention may be to the public, whatever may have been the labour and the ingenuity of the inventor in producing and perfecting the invention for the benefit of the public; and although he may not only have made no profit, but sustained great loss, by his endeavours to bring his invention into public use. It appears to me that it is highly expedient that prolongations should continue to be granted in every case in which the public shall be shown to have derived great advantage from a Patentee's invention, and in which the inventor shall have failed without any fault of his own during his original term to obtain a sufficient reward for his ingenuity, labour, and pecuniary expenditure. And it appears to be the more expedient to grant extensions of Patents in such cases in order to encourage inventors to apply the peculiar skill and knowledge which they possess to effect the greatest attainable improvement in the practice of their inventions for the benefit of the public.

According to the present practice, however, the interests of the public are not sufficiently protected upon the hearing of applications for prolongations, more especially in unopposed cases, and I recommend a careful inquiry by competent persons to be instituted in every case into the claims of the petitioner for the extension sought to be obtained, the result of that inquiry to be reported to the Privy Council at the hearing of the application.

I concur with the other Commissioners in opinion that the Crown should have the power of using any patented invention which may be deemed useful in the service of the country, and that when any such invention shall have been so used the Patentee should be rewarded out of the public treasury according to the benefit which his invention shall have conferred upon the public service.

It is difficult to say what would be the best mode of determining the amount of the reward to be given to a Patentee in such a case; but I recommend that in every case in which the amount cannot be fixed by agreement between the officers of the Crown and the Patentee, it should be determined by the tribunal (not being a jury) which by law may be authorized to determine the amount of a Patentee's claim for damages in an action for the infringement of a Patent.

The law officers of the Crown, according to the present state of the law, have the sole power of disposing of applications for leave to enter Disclaimers and Memorandums of Alteration relating to titles of patented inventions and Specifications.

That mode of disposing of such applications is sufficient in many cases, but cases occasionally occur in which important facts come into dispute which the law officers have not the means of satisfactorily determining, I therefore recommend that in every such case there should be a right of appeal given to an applicant or a party opposing the appeal, such appeal to be heard by the Lord Chancellor or a judge to whom he shall think fit to refer it.

The present mode of revoking and cancelling Patents for inventions is by an action of *scire facias*, in which a person complaining of the illegality of a Patent is authorized by the fiat of the Attorney-General to proceed in the name of the Crown to obtain the judgment of the Court of Chancery for the revocation and cancelling of the Patent. This use of the name of the Crown appears to be highly objectionable, and the whole proceeding is cumbrous, dilatory, and expensive. I recommend that in lieu of the proceeding by *scire facias*, any person complaining of the illegality of a Patent, should be enabled to apply by petition in a summary way to the Lord Chancellor to have the Patent revoked and cancelled, and that upon every such petition, the Lord Chancellor, or any court or judge appointed by him to hear the matters of the petition, should have the same powers as the Court of Chancery has in an action of *scire facias*.

If a court such as above suggested shall be instituted, the hearing of such petitions might conveniently take place in that court.

Applications for Patents and for leave to enter Disclaimers and Memorandums of Alteration, as well as oppositions to such applications are generally conducted by persons called Patent agents. Some Patent agents are persons of skill and probity, but as every person who can obtain employment is at liberty to act as a Patent agent, the consequence has been that grossly incompetent and fraudulent persons have acted as Patent agents, to the great loss and injury of unwary inventors induced to employ them.

Patent agents are not at present subject to the control of any court or other authority, and there are, therefore, no adequate means of punishing them for malversation or gross incompetence.

The right of persons to act as Patent agents without being admitted solicitors or officers of the Court of Chancery, has been too long established to be taken away, at all events, so far as respects persons at present in practice.

I beg leave to recommend that the names of all the present Patent agents should be registered in the Office of the Commissioners of Patents, and that no person should hereafter be permitted to practise as a Patent agent until examined by some competent authority, in order to ascertain his competency; that all persons so registered as Patent agents, should annually obtain certificates of their right to practise, and should be made liable to be punished for misconduct by the Lord Chancellor or the Master of the Rolls.

There are now several Acts of Parliament in existence relating wholly or in part to Patents for inventions. In any alteration of the Patent Law which may be made by Parliament, I beg leave to recommend that all the existing enactments relating to the subject passed since the Statute of Monopolies, should be repealed, and the whole of the law (with the exception of that Statute), consolidated in one Act.

All which I submit to Your Majesty with great humility, and with great deference to the opinions of the other Commissioners expressed in their Report, which are not in accord with those I thus humbly submit to Your Majesty.

W. M. HINDMARCH.

29th September 1864.

REPORT OF MR. FAIRBAIRN.

MAY IT PLEASE YOUR MAJESTY,

I HAVE signed the Report as settled by a majority of the Commissioners, with the exception of the sixth recommendation (in which I was unable to concur), "that in no case ought the time for which a Patent has been granted to be extended beyond 14 years." On this question I agree with the views expressed by Mr. Hindmarch in his Report, that in cases where the public have derived advantages from a Patentee's invention, and where the Patentee has not been remunerated, it is then desirable and highly expedient that prolongations should be granted. In these views I heartily concur, and also in several useful suggestions contained in that Report.

WM. FAIRBAIRN.

15th November 1864.

MINUTES OF EVIDENCE.

LIST OF WITNESSES EXAMINED.

1862.		Page			Page
<i>Thursday, November 20.</i>			<i>Wednesday, February 18.</i>		
B. WOODCROFT, Esq.	-	-	R. ROBERTS, Esq.	-	79
<i>Monday, November 24.</i>		1	<i>Tuesday, February 24.</i>		
W. CARPMAEL, Esq.	-	-	M. CURTIS, Esq.	-	83
<i>Tuesday, December 16.</i>		6	<i>Thursday February 26.</i>		
W. CARPMAEL, Esq.	-	-	Sir F. CROSSLEY -	-	90
<i>Wednesday, December 17.</i>		16	T. WEBSTER, Esq.	-	96
L. EDMUNDS, Esq.	-	-	<i>Wednesday, May 13.</i>		
		25	H. REEVE, Esq.	-	101
1863.			<i>Monday, May 18.</i>		
<i>Tuesday, January 27.</i>			A. V. NEWTON, Esq.	-	108
W. SPENCE, Esq.	-	-	<i>Thursday, May 21.</i>		
<i>Tuesday, February 3.</i>		33	R. A. MACFIE, Esq.	-	115
J. SCOTT RUSSELL, Esq.	-	-	T. WEBSTER, Esq.	-	122
<i>Wednesday, February 4.</i>		41			
J. PLATT, Esq.	-	-	1864.		
<i>Tuesday, February 10.</i>		48	<i>Monday, June 20.</i>		
W. R. GROVE, Esq., Q.C.	-	-	His Grace the Duke of SOMERSET	-	127
<i>Wednesday, February 11.</i>		55	Rear Admiral R. S. ROBINSON, Comptroller	-	
Sir W. ARMSTRONG	-	-	of the Navy	-	127
<i>Tuesday, February 17.</i>		66	Brigadier-General J. H. LEFROY	-	133
MONTAGUE E. SMITH, Esq., Q.C., M.P.	-	-	<i>Friday, June 24.</i>		
		73	W. CARPMAEL, Esq.	-	137
			C. M. CLODE, Esq.	-	140
			F. A. ABEL, Esq.	-	144

ANALYSIS OF ORAL AND WRITTEN EVIDENCE, as relating to the QUESTIONS drawn up and circulated by the COMMISSION.

1. Should the cost of obtaining Letters Patent be diminished, or increased? if either, to what extent; and should the payment be made in one sum, or by annual or other instalments?

Oral Evidence.		Question.			
Mr. H. Reeve. Mr. L. Edmunds Mr. B. Woodcroft. Mr. W. Carpmael	Would make no change - - -	527 (p. 28)- 534. 326-342.		Patent Law Reform Association.	212.
	Cost of obtaining Patent is small rather than large. Retain the first payment. Reduce the second and third payments to 25 <i>l.</i> each. Objects to annual payments.			Halifax:— Mr. E. Ackroyd -	188.
	Second payment of 50 <i>l.</i> after five years. Third payment of 100 <i>l.</i> after nine years.	584-599.		Messrs. Crossley - Mr. W. Tasker -	189.
	Approves the present system. Would make no change in cost if a change of law be contemplated. Suggests a remedy in cases of mistake, for continuing a Patent upon cause shown why second and third payments were not made in time.	1826-1833.		Liverpool:— Messrs. McFie -	—
Mr. W. Spence -	Any alteration should be by reducing the first payment, if other checks were resorted to.	1667-1669.	Mr. J. Spence - Mr. J. Farrie -	Present cost is far too low -	192.
				Present cost should not be diminished unless further restrictions be imposed.	—
Mr. A. V. Newton	Would not now alter the cost; but, if anything, increase the first payment.	963-969.	Mr. John Potter - Inventors' Institute -	The 100 <i>l.</i> stamp abolished -	186.
				Cost too high; should be reduced to 25 <i>l.</i> , payable by five instalments of 50 <i>s.</i> each, in lieu of 5 <i>l.</i> as at present, up to the completion of Patent, and 12 <i>l.</i> 10 <i>s.</i> after end of the fifth year.	193.
Mr. W. R. Grove. Mr. M. E. Smith. Mr. T. Webster -	Would make no alteration -	832-836.	Mr. E. A. Cowper -	Would have Patents granted for 21 years; and that 100 <i>l.</i> be paid on the 14th year as well as the present fees on the third and seventh years. Revised Specification should be lodged at the seventh and 14th year.	209.
	Cost should be much reduced, and payment made in one sum.	1324-1329, 1356-1358.			
	Would reduce the first payment to 15 <i>l.</i> , and continue the present mode of payment.	1436-1440.			
	Would make no alteration -	1545-1548.			
Mr. J. S. Russell. Mr. J. Platt - Sir W. Armstrong. Mr. R. Roberts -	Cost should be increased -	1939, 1940.			
Written Answers.		Page.	Chamber of Commerce:—		
Lord Chelmsford -	Cannot say whether the present system strikes the mean of not discouraging invention nor encouraging speculative Patents.	179.	Wolverhampton -	To cover expenses of Court, Patent Office, and Registry.	196.
Sir R. Palmer -	Cannot suggest any alteration -	180.	Belfast - - -	A first payment of 18 <i>l.</i> with 13 annual instalments of 4 <i>l.</i> each.	197.
Sir John Romilly -	Approves the present system -	178.	Glasgow:— Mr. Rankine -	Costs to be sufficient to pay expenses of Patent Department, payable by instalments.	198.
Mr. H. Blair -	Approves the present system -	212.	Mr. Hunt - - -	Costs of Patent not to be decreased, but 100 <i>l.</i> be paid by five consecutive annual instalments of 20 <i>l.</i> , commencing from the third year.	—
Mr. M. Henry -	Proposes no alteration - - -	185.	Mr. J. Richardson	Thinks there is reason to increase rather than diminish the cost, unless other checks are adopted. Some advantage in payment by annual instalments.	199.
Chamber of Commerce:—	Approves the present system -	183.	Mr. E. Henry - Mr. J. Finlay -	Diminished annual instalments.	—
	Would diminish the fees in a proportion sufficient to meet only the expenses of the Patent Office.	184.		Would diminish costs of Patents, and pay by annual instalments.	—
Leeds - - -	Sees no reason to alter the present system.	184.	Mr. J. Ronald -	Costs to be small and payable in one sum.	—
Huddersfield -	Would retain the first payment, but diminish the second and third to such a proportion as would meet only the expenses of the Patent Office.	215.	Mr. A. Pattison -	No objection to present system.	—
Nottingham - -	Suggests no alteration - - -	218.	Messrs. Mitchell and Whytlaw.	Would have the costs reduced. The whole expense should not be more than 50 <i>l.</i> , spread over two years.	—
Birmingham -	Proposes registration with a fee of 10 <i>l.</i>	191.	Mr. W. Macfarlane	The costs should be diminished to not more than what is necessary to cover all expenses.	—
Bradford:— Mr. J. Lister -	Would increase the first payment to 50 <i>l.</i> , with a second payment of 50 <i>l.</i> after three years.	184.	Institution of Civil Engineers of Scotland.	Majority in favour of reducing the cost to mere expenses of the Patent Office; but for retaining the present mode of payment.	—
Mr. James Holden Mr. W. Ecroyd -	Proposes no alteration - - -	185.	Philosophical Society	A payment of 50 <i>l.</i> at the end of the fifth year only, and no further payments.	205.
Mr. G. H. Leather	Objects <i>in toto</i> to the Patent system.	—			
Manchester:— Mr. J. Fletcher - Mr. E. Leigh -	Proposes no alteration -	190.			
	Would postpone the payment of 50 <i>l.</i> till the end of five years, and do away with the payment of 100 <i>l.</i>	182.			
Mr. P. J. Linsey -	Reduce first cost to 6 <i>l.</i> Retain second and third payments.	183.			

2. Does the present mode of obtaining Patents appear to you satisfactory? Is it your opinion that there ought to be a preliminary investigation of a more searching character than that which at present takes place? If so, how should the tribunal be constituted before which such investigation shall be conducted, and should the judgment of such tribunal be final?

	<i>Oral Evidence.</i>	<i>Question.</i>
Mr. H. Reeve. Mr. L. Edmunds -	Against preliminary examination.	576, p. 31.
Mr. Bennett Woodcroft.	Against preliminary examination.	89-94, 122-130.
Mr. W. Carpmael.	Against preliminary examination.	259-273, 289-295, 319.
Mr. W. Spence -	Against preliminary examination. The present system to be more strictly carried out.	600-608, 713-716.
Mr. A. V. Newton	Finds difficulty in alteration of the present system. Suggests a certificate to be given by Board of Examiners.	1834-1841.
Mr. W. R. Grove -	Suggests some stricter preliminary examination by body of assistants to the law officers. Suggests alternatives.	971, 975-992, 994-999, 1054 & 1055, 1056.
Mr. M. E. Smith -	Would have stricter preliminary examinations by assessors selected by the Attorney-General from a panel to be appointed by the judge of a special tribunal.	1236-1239, 1253 & 1254.
Mr. T. Webster -	Objects to the present practice before the law officers. Would have examination as to novelty, so far as regards documents. Certificate of examiners with appeal, which should be conclusive.	1670-1693, 1705-1709, 2027-2040.
Mr. J. S. Russell -	Would have a stricter preliminary examination by mixed tribunal of lawyer and experts.	725, 743-748.
Mr. J. Platt -	Would have preliminary examination by tribunal of lawyer and experts, with right of appeal to patentee.	837-841.
Sir W. Armstrong	Would have stricter examination by special tribunal.	1099-1102, 1118, 1123.
Mr. R. Roberts -	Would have a stricter examination, not to conclude Patent but by way of certificate.	1360-1370.
Mr. M. Curtis -	Objects to change present system.	1448.
Sir F. Crossley -	Approves the present system. Suggests a modified examination by special tribunal, with right of appeal.	1549-1561, 1583-1588.
Mr. R. A. McFie -	Would have preliminary examination as to novelty by experts.	1941-1944.
<i>Written Answers.</i>		
Lord Chelmsford -	Present system not satisfactory. Would have examination as to novelty made in the Patent Office.	179.
Sir R. Palmer -	Satisfied with present system. States objections to others.	180.
Sir John Romilly -	Thinks further preliminary examination would be injurious.	178.
Mr. H. Blair -	Would have a preliminary examination as to utility and novelty, so far as regards printed publication, by two experts and a lawyer.	212.
Mr. M. Henry -	Satisfied with the present system. The preliminary examination should be final.	185.
<i>Chamber of Commerce:—</i>		
Leeds - - -	Would have a permanent officer in the place of the law officers.	183.
Huddersfield -	Approves the present system -	184.
Nottingham -	Approves the present system -	184.
Birmingham -	Objects to preliminary examination.	215.
Mr. G. Jabet -	Approves the present system -	218.
Bristol - - -	Would grant Patent by registration, upon examination as to sufficiency of specification.	191.

<i>Bradford:—</i>		<i>Page.</i>
Mr. J. Lister.		
Mr. J. Holden -	Would have preliminary examination by special tribunal.	185.
Mr. W. Ecroyd.		
Mr. G. H. Leather	Would have examination by tribunal of three experts.	—
<i>Manchester:—</i>		
Mr. J. Fletcher -	Would have examination by Board.	190.
Mr. E. Leigh -	Satisfied with the present system. Examination, if any, to go only to novelty.	182.
Mr. P. J. Linsey -	Opposed to all preliminary examination, except by way of certificate.	183.
Mr. E. F. Hughes	Examination by Board as to novelty. Would abolish provisional specifications and allow Patents of addition.	182.
Patent Law Reform Association	Yes - - - -	212.
<i>Halifax:—</i>		
Mr. E. Ackroyd -	Would have examination by a Board as to novelty. Certificate to be not conclusive.	188.
Messrs. Crossley -	Approves the present system -	189.
Mr. W. Tasker -	Agrees with Mr. E. Ackroyd.	—
<i>Liverpool:—</i>		
Messrs. McFie -	Present system is not satisfactory. Would have jury of experts to report as to novelty with right of appeal.	—
Mr. J. Spence -	Present system is not satisfactory. A special tribunal should examine as to novelty and utility.	192.
Mr. J. Farrie -	Not satisfactory. A special tribunal should examine as to novelty and practicability.	—
Mr. John Potter -	More searching investigation -	186.
Inventors' Institute -	Preliminary investigation, as to novelty, by Board of examiners. Their report if unfavourable not to conclude the Patent.	194.
Mr. E. A. Cooper -	As the preceding answer, with an appeal from the report to a judge of the Patent Court.	209.
<i>Chamber of Commerce:—</i>		
Wolverhampton -	Not satisfactory. A preliminary examination.	196.
Belfast - - -	Strict preliminary investigation as to novelty by a Judicial Commission in place of the Law Officers, with appeal to the Privy Council.	197.
<i>Glasgow:—</i>		
Mr. Rankine -	Satisfied with mode of obtaining Patents. Thinks investigation impracticable.	199.
Mr. Hunt - - -	Strict investigation as to novelty, but not to conclude the Patent.	—
Mr. J. Richardson	Would have a thorough investigation, but not to conclude the Patent.	200.
Mr. E. Henry -	Yes. Do not know. Yes.	—
Mr. J. Finlay -	Not satisfactory. Would have a Board for preliminary investigation as to novelty.	—
Mr. J. Ronald -	Not satisfactory. Specifications to be more accurately drawn up.	—
Mr. Pattison -	Would have tribunals of scientific men to decide finally, as to novelty, on applications for Patents.	—
Messrs. Macfarlane & Co.	No. Yes. Preliminary investigation not to be conclusive.	—
Institute of Engineers of Scotland.	No. A more searching investigation as to novelty. Scientific and practical men to conduct investigation, which should not be conclusive.	—
Philosophical Society.	Preliminary investigation, but not to be conclusive.	205.

3. Should the investigation be ex-parte or public, and subject to opposition? Should the present practice as to caveats be adhered to?

	<i>Oral Evidence.</i>	<i>Question.</i>
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. R. Woodcroft.		

Mr. W. Carpmael.		Question.
Mr. W. Spence -	Ex parte - - - -	613 & 614.
Mr. A. V. Newton.		
Mr. W. B. Grove	As a rule, ex parte - -	993-996.
Mr. M. C. Smith -	Ex parte, with power to oppose	1240-1242.
Mr. T. Webster.		
Mr. J. S. Russell -	Ex parte - - - -	774 & 775.
Mr. J. Platt -	Ex parte - - - -	842.
Sir W. Armstrong	Would have opposition - -	1153-1155.
Mr. B. Roberts.		
Mr. M. Curtis -	Should be public - - -	1460.
Sir F. Crossley.		
Mr. R. A. McFie.		
<i>Written Answers.</i>		<i>Page.</i>
Lord Chelmsford -	Ex parte. Approves caveat system.	179.
Sir R. Palmer -	Subject to opposition. Approves present system.	180.
Sir John Romilly -	Objects to suggested examination. Approves present practice as to caveats.	178.
Mr. H. Blair -	Ex parte, with opposition as now. Approves system of caveats.	213.
Mr. M. Henry -	Ex parte - - - -	186.
<i>Chamber of Commerce:—</i>		
Leeds - - -	Refers to answer, Question 2. Approves the system of caveats.	183.
Huddersfield -	See answer to Question 2 -	184.
Nottingham -	See answer to Question 2 -	184.
Birmingham:—		
Mr. G. Jabet -	Examination to be before special tribunal. Retain system of caveats.	218.
<i>Bristol.</i>		
<i>Bradford:—</i>		
Mr. J. Lister.		
Mr. J. Holden -	Subject to opposition - -	185.
Mr. W. Eeroyd.		
Mr. G. H. Leather	Public.	—
<i>Manchester:—</i>		
Mr. J. Fletcher -	Subject to opposition - -	100.
Mr. E. Leigh -	Would abolish caveats - -	182.
Mr. P. J. Linsey.	- - - -	183.
Mr. E. J. Hughes	Ex parte, with opposition on appeal. Would retain caveats.	182.
Patent Law Reform Association	Adhere to present practice -	212.
<i>Halifax:—</i>		
Mr. E. Ackroyd -	Ex-parte, with opposition on appeal and in cases of fraud.	188.
Messrs. Crossley -	Approve present system of caveats.	189.
Mr. W. Tasker -	Agrees with Mr. E. Ackroyd.	—
<i>Liverpool:—</i>		
Messrs. McFie -		
Mr. J. Spence -	Public, and subject to opposition	192.
Mr. J. Farrie -	Public, and subject to opposition. Approves present practice as to caveats.	—
Mr. John Potter -	Private hearing - - -	187.
Inventors' Institute -	Opposed to public investigation. See system proposed in answer to Question 2.	195.
Mr. E. A. Cooper -	Private; but subject to opposition. System of caveats of little use.	209.
<i>Chamber of Commerce:—</i>		
Wolverhampton -	Public investigation - -	196.
Belfast - - -	Preliminary investigation ex-parte.	197.
<i>Glasgow:—</i>		
Mr. Rankine -	Private, if any - - -	200.
Mr. Hunt - - -	See Answer 2. Caveats of little use.	—
Mr. J. Richardson	Doubtful as to caveats.	—
Mr. E. Henry -	Public; subject to opposition.	—
Mr. J. Finlay -	Either party to appear by counsel. Caveats, under the present system, good.	—
Mr. J. Ronald -	Approves present system; objector, failing, should pay costs.	—
Mr. A. Pattison -	Public, and subject to opposition. Approves system of caveats in answer to Nos. 1, 2, 3.	—
Mr. A. Brown -	Approves present system.	—
Messrs. Mitchell & Whytlaw		
Mr. W. McFarlane	Public. Opposition only to go to novelty. Approves caveats.	—

Institution of Civil Engineers of Scotland.	Approves present system. Opposition only to go to novelty.	Page. 201
Philosophical Society.	Public. Opposition of little value.	205
4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?		
<i>Oral Evidence</i>		<i>Question.</i>
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. B. Woodcroft.		
Mr. W. Carpmael	No - - - -	274-276, 296.
Mr. W. Spence -	No - - - -	615.
Mr. A. V. Newton	No - - - -	1842-1846.
Mr. W. R. Grove	Yes - - - -	972-980.
Mr. M. E. Smith	Yes - - - -	1243 & 1244.
Mr. T. Webster.		
Mr. J. S. Russell	Yes - - - -	767 & 768.
Mr. J. Platt -	Yes - - - -	843 & 844, 872.
Sir W. Armstrong	Yes - - - -	1104-1111, 1137-1140.
Mr. R. Roberts -	No - - - -	1338-1341, 1373-1376, 1385, 1428-1430.
Mr. M. Curtis -	Admits possible inconvenience.	1441-1444.
Sir F. Crossley.		
Mr. R. A. McFie	Expects future inconvenience.	1944-1947, 1954- 959.
<i>Written Answers.</i>		<i>Page.</i>
Lord Chelmsford -	No grounds for forming an opinion.	179.
Sir R. Palmer -	No practical knowledge - -	180.
Sir J. Romilly -	Yes - - - -	178.
Mr. H. Blair.	- - - -	213.
Mr. M. Henry -	No - - - -	186
<i>Chamber of Commerce:—</i>		
Leeds - - -	Can suggest no remedy - -	183.
Huddersfield -	Inconvenience to later patentees. Remedy by good system of indexes and digest of decisions.	184.
Nottingham -	To the trade, not to the public	184.
Birmingham -	No - - - -	215.
Mr. G. Jabet -	Not on the whole - - -	218.
<i>Bristol.</i>		
<i>Bradford:—</i>		
Mr. J. Lister -	Yes - - - -	184.
Mr. J. Holden -	Yes - - - -	185.
Mr. W. Eeroyd.	Yes.	—
Mr. G. H. Leather.		
<i>Manchester:—</i>		
Mr. J. Fletcher -	Would not be under system proposed in answer No. 2.	190.
Mr. E. Leigh -	No - - - -	182.
Mr. P. J. Linsey.		
Mr. E. J. Hughes	No - - - -	182.
Patent Law Reform Association	Yes; to be remedied by a preliminary examination as to novelty.	212.
<i>Halifax:—</i>		
Mr. E. Ackroyd -	Yes. Would increase means of ascertaining invalid Patents.	188.
Messrs. Crossley -	No - - - -	189.
Mr. W. Tasker -	Agrees with Mr. E. Ackroyd.	—
<i>Liverpool:—</i>		
Messrs. McFie -	Yes.	—
Mr. J. Spence -	Yes - - - -	192.
Mr. J. Farrie -	Yes.	—
Mr. John Potter -	No - - - -	187.
Inventors' Institute -	No - - - -	195.
Mr. E. A. Cooper -	No; but Courts are too lenient towards Patents taken out for matters not properly patentable.	209.
<i>Chamber of Commerce:—</i>		
Wolverhampton -	Yes - - - -	196.
Belfast - - -	Yes. Remedy by refusal for want of novelty and by annual payments.	197.
<i>Glasgow:—</i>		
Mr. J. M. Rankine	Yes - - - -	201.
Mr. E. Hunt -	Not as yet.	—
J. Richardson & Co.	Yes.	—
Mr. E. Henry -	Yes.	—
Mr. J. Finlay -	No.	—
Mr. J. Ronald -	Too many Patents are granted, but it is not the business of the Law to remedy this.	—

Mr. A. M. Pattison	Yes	-	-	-	-	-	Page. 201.
Mr. W. Brown	Yes.						—
J. Wingate & Co.	Yes.						—
Mitchell & Whyt- law.	See Answer to No. 5.						—
W. McFarlane & Co	No.						—
Institute of Civil Engineers.	Yes.						—
Philosophical So- ciety.	Yes	-	-	-	-	-	205.

5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?

	Oral Evidence.	Question.
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. B. Woodcroft.		
Mr. W. Carpmæl	No - - - - -	307-314.
Mr. W. Spence	No - - - - -	615.
Mr. A. V. Newton	No; but for obvious applica- tions.	1847-1849, 1853-1855.
Mr. W. R. Grove	Yes - - - - -	972, 976- 978, 1052 & 1053.
Mr. M. E. Smith	Yes - - - - -	1238, 1247, 1257-1264.
Mr. T. Webster	No - - - - -	1710-1719, 1725-1735.
Mr. J. S. Russell	No; only Patents manifestly not useful.	758, 759, 772.
Mr. J. Platt	No - - - - -	850-865.
Sir W. Armstrong	Yes - - - - -	1172 (note).
Mr. B. Roberts	No - - - - -	1378.
Mr. M. Curtis	No - - - - -	1449, 1451, 1466-1473.
Sir F. Crossley	No - - - - -	1549, 1552 and 1553.
Mr. R. A. McFie	Thinks not - - - - -	1975.

	Written Answers.	Page.
Lord Chelmsford	No - - - - -	179.
Sir R. Palmer	Yes, at the discretion of the Law Officer, with right of appeal.	180.
Sir John Romilly	The question of frivolity cannot be decided.	178.
Mr. H. Blair	Agrees with last answer - -	213.
Mr. M. Henry	No - - - - -	186.

*Chamber of Com-
merce:—*

Leeds - - -	The question cannot be decided	183.
Huddersfield - -	No - - - - -	184.
Nottingham - -	No - - - - -	184.
Birmingham - -	No - - - - -	215.
Mr. G. Jabet	No - - - - -	218.

Bristol:—

Bradford:—		
Mr. J. Lister	Utility cannot be estimated -	184.
Mr. J. Holden	Yes, if possible - - -	185.
Mr. W. Ecroyd	Agrees with last answer.	—
Mr. G. H. Leather.		

Manchester:—

Mr. J. Fletcher.	- - - - -	190.
Mr. E. Leigh	No - - - - -	182.
Mr. P. J. Linsey.	- - - - -	
Mr. E. J. Hughes	No - - - - -	182.
Patent Law Re- form Association	No - - - - -	212.

Halifax:—

Mr. E. Ackroyd	No - - - - -	188.
Messrs. Crossley	Would give a discretion to the Law Officers.	189.

Mr. W. Tasker	Agrees with Mr. E. Ackroyd.	—
Liverpool:—		
Messrs McFie	Not under the proposed restric- tions.	190.

Mr. J. Spence	Certainly - - - - -	192.
Mr. J. Farrie	Yes.	—

Mr. John Potter	Cannot say - - - - -	187.
Inventors' Institute	No - - - - -	195.
Mr. E. A. Cooper	Difficult to say; but an expert might decide whether inven- tion was a patentable invention.	210.

*Chamber of Com-
merce:—*

Wolverhampton	Yes - - - - -	196.
Belfast	No - - - - -	197.

Glasgow:—

Mr. Rankine	No.	201.
Mr. Hunt	No examining board can satis- factorily pronounce on the utility of an invention.	—

Messrs. Richardson	Prefer system of compensation to patentee, who should prove the value of his invention.	Page. 202.
Mr. Henry - -	Yes.	—
Mr. Finlay - -	Yes; if trifling or frivolous, but not if improvements.	—
Mr. Ronald - -	Yes.	—
Mr. Pattison -	Yes.	—
Messrs. Wingate & Co.	Patents should not be granted for the modification of other inventions	—
Messrs. Mitchell & Whytlaw.	It would be better that a consti- tuted body should have power, before a patent is taken out, to decide whether it is too trifling and frivolous.	—
Messrs. Macfarlane	No.	—
Institute of Civil Engineers of Scotland.	No.	—
Philosophical So- ciety.	Yes, if practicable - - -	205.

6. Should greater facilities be provided for the repeal of invalid Patents?

	Oral Evidence.	Question.
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. B. Woodcroft	Yes, by motion - - -	131, 143-146.
Mr. W. Carpmæl	Yes - - - - -	345-354, 485-518.
Mr. W. Spence	Yes - - - - -	617-622.
Mr. A. V. Newton	Objects to the present system -	1858.
Mr. W. B. Grove	Yes - - - - -	1059-1067.
Mr. M. E. Smith.		
Mr. T. Webster.		
Mr. J. S. Russell.		
Mr. J. Platt	Satisfied with present system. Would transfer jurisdiction to a special court, if constituted.	907-912.
Sir W. Armstrong	Yes - - - - -	1166-1177.
Mr. R. Roberts.		
Mr. M. Curtis	Would have an easier mode of putting in issue the question of validity.	1527.
Sir F. Crossley.		
Mr. R. A. McFie		

Written Answers.

	Page.
Lord Chelmsford	Would take the opinion of the court on questions of law be- fore trial of fact. 179.
Sir R. Palmer	By summary proceeding - - 180.
Sir J. Romilly	Yes - - - - - 178.
Mr. H. Blair	Refers present system - - 213.
Mr. M. Henry	No - - - - - 186.

*Chamber of Com-
merce:—*

Leeds - - -	Can only follow from general improvement in trials in courts of law. 183.
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Huddersfield - -	Yes - - - - - 184.
Nottingham - -	No - - - - - 184.
Birmingham - -	Yes - - - - - 215.
Mr. G. Jabet	Only to be done by special tri- bunal. 218.

Bristol - - -	By special tribunal, with jury of six experts. 191.
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Bradford:—

Mr. J. Lister.		
Mr. J. Holden	See answer to Question 7 -	185.
Mr. W. Ecroyd.		
Mr. G. H. Leather.		

Manchester:—

Mr. J. Fletcher	Repeal to be by and at expense of the Crown. 190.
Mr. E. Leigh	Should be repealed on clear proof of invalidity. 182.

Mr. P. J. Linsey.		
Mr. E. J. Hughes	If possible - - - - -	182.
Patent Law Re- form Association	Renewal at the end of five years sufficient.	212.

Halifax:—

Mr. E. Ackroyd	Suggests repeal by public offi- cers. 188.
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Messrs. Crossley	Know of no present difficulty -	189.
Mr. W. Tasker	Agrees with Mr. E. Ackroyd.	—

Liverpool:—

Messrs McFie	Yes - - - - - 190.
Mr. J. Spence	No - - - - - 192.

Mr. J. Farrie	They should be repealed as soon as possible. —
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Mr. John Potter -	Yes - - - - -	Page. 187.
Inventors' Institute -	Would not object to such course	195.
Mr. E. A. Cooper -	Yes; by cheaper process of scire facias before Patent Court.	210.
<i>Chamber of Commerce:—</i>		
Wolverhampton -	Yes - - - - -	196.
Belfast -	By application, on summons, to the Patent Judge.	197.
<i>Glasgow:—</i>		
Mr. J. M. Rankine	Yes - - - - -	202.
Mr. E. Hunt -	Not required, if other improve- ments be adopted.	—
J. Richardson & Co	Should be without expense to patentee.	—
Mr. E. Henry -	Yes.	—
Mr. J. Finlay -	By cause shown, before Special Court.	—
Mr. J. Ronald -	Yes.	—
Mr. A. M. Pattison	Give every facility.	—
Mitchell & Whyt- law.	No.	—
W. McFarlane & Co	Not requisite.	—
Institute of Civil Engineers.	Yes.	—
Philosophical So- ciety.	Yes, by reduction of costs -	205.

7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by Patentees?

<i>Oral Evidence.</i>		<i>Question.</i>
Mr. H. Reeve.		
Mr. L. Edmunds -	Yes. Procedure by petition in a Court of Chancery.	580, pp. 32, 33.
Mr. B. Woodcroft.		
Mr. W. Carpmael	Would employ paid assessors to the present courts. Merits of jury doubtful.	429-431, 442-484 (note).
Mr. W. Spence -	Would employ selected asses- sors to a special tribunal with jury, at the option of the judge; the issues to be pre- pared by an officer of the court.	617-677.
Mr. A. V. Newton	Would have permanent asses- sors to a court without jury, with issues to be settled as last above.	1859-1867, 1868-1889.
Mr. W. R. Grove	Yes; by special tribunal, with jury of experts, at the option of the judge, or with assessors not permanent.	1068-1086, 1090-1094.
Mr. M. E. Smith -	Would retain the jurisdiction of the courts of law and equity with assessors acting as a jury.	1272-1287, 1303.
Mr. T. Webster -	Retain present jurisdiction, with the addition of assessors, issues to be settled before trial.	2062-2064, 2069-2070.
Mr. J. S. Russell -	Would appoint a special court, aided by four assessors, with jury, at the option of the judge.	792-803.
Mr. J. Platt -	Would appoint special court, with assessors, and without jury, or would resort to arbi- tration.	891, 906.
Sir W. Armstrong	Would appoint special court, with assessors, and without jury.	1179-1181.
Mr. R. Roberts -	Would have special court, with jury of experts.	1408-1420.
Mr. M. Curtis -	Would have special court and judge, with assessors and jury of experts. Issues to be pre- pared by officer of the court.	1476-1508.
Sir F. Crossley -	Would have special court and judge, with assessors or jury of experts.	1563-1582.
Mr. R. A. McFie.		
<i>Written Answers.</i>		<i>Page.</i>
Lord Chelmsford -	Would have trial by jury of five experts.	180.
Sir W. Erle -	Would retain the present juris- diction, with power to the judge to call in aid of asses- sors and jury.	221, 222.
Sir R. Palmer -	Has no suggestion to make.	180.
Sir John Romilly -	Would retain present jurisdic- tion, aided by assessors.	178.
Mr. H. Blair -	Would appoint a special court.	213.

Mr. M. Henry -	Would appoint a special court and judge, with jury of ex- perts for Patent and copyright cases.	Page. 186.
<i>Chamber of Commerce:—</i>		
Leeds -	Would have trial by judge with assessors, without jury.	183.
Huddersfield -	Would appoint special court -	184.
Nottingham -	Considers a change desirable -	184.
Birmingham -	Would appoint a special court, with assessors and jury. Have summary proceedings against infringements before local courts.	215.
Mr. G. Jabet -	Would appoint a judge of Patent cases with assessors, chosen by him, and jury at the option of the parties.	218.
Bristol -	Refers to answer to Question 6.	191.
<i>Bradford:—</i>		
Mr. J. Lister -	Would make no change -	184.
Mr. J. Holden -	Would appoint a special court	185.
Mr. W. Ecroyd -	Would try all cases before a jury of experts.	—
Mr. G. H. Leather	Would try all cases before a jury of experts, in the country.	—
<i>Manchester:—</i>		
Mr. J. Fletcher -	Would appoint special court and judge, aided by a jury of three to five experts.	191.
Mr. E. Leigh -	Would have trial in local courts with jury of experts, with appeal to special court with jury of twelve experts.	182.
Mr. P. J. Linsey -	Would have a special tribunal for trial of all patent matters.	183.
Mr. E. J. Hughes	Would prefer trial before special court with jury of experts.	182.
Patent Law Re- form Association	Yes; by trial at assizes before jury of experts, with appeal to special Patent Court.	212.
<i>Halifax:—</i>		
Mr. E. Ackroyd -	Would appoint one or more special judges, aided by asses- sors.	188.
Messrs. Crossley -	Agree with preceding answer -	180.
Mr. W. Tasker -	Would have trial in the ordi- nary courts with jury of experts.	—
<i>Liverpool:—</i>		
Messrs. McFie.		
Mr. J. Spence -	See answer to Question 2 -	192.
Mr. J. Farrie -	Would appoint a special tri- bunal.	—
Mr. John Potter	Refers to his remarks - - -	187.
Inventors' Institute	There should be a trial before a special court and judge, with appeal to the Privy Council. Jury to be at the option of either, or by consent of both parties. In the first case to be a jury of experts, in the second an ordinary jury.	195.
Mr. E. A. Cooper -	Yes, by institution of a special court, with three Patent judges, assisted by board of examiners.	210.
<i>Chamber of Commerce:—</i>		
Wolverhampton -	Yes - - - - -	196.
Belfast -	Retain present jurisdiction. Only question of infringe- ment should be tried, subject to right of defendant to stay proceedings pending an appli- cation by him for cancellation.	197.
<i>Glasgow:—</i>		
Mr. J. M. Rankine	Cannot answer - - -	202.
Mr. E. Hunt -	Trial by special jury of experts.	—
Mr. E. Henry -	Yes.	—
Mr. J. Finlay -	Yes.	—
Mr. J. Ronald -	Trials should be simple and cheap.	—
Mr. A. M. Pattison	Trial by experts.	—
Messrs. Mitchell and Whytlaw.	System bad, but cannot pro- pose amendment.	—
Messrs. McFarlane & Co.	Would have a special court.	—
Institute of Civil Engineers.	Would have a cheaper system. Juries should be acquainted with science.	—
Philosophical So- ciety.	Juries should be composed of scientific and practical men.	205.

8. Should the granting of Licences in your opinion be made compulsory, and can you suggest any practicable method by which this should be done?

	Oral Evidence.	Question.
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. B. Woodcroft.		
Mr. W. Carpmael.		
Mr. W. Spence -		
Mr. A. V. Newton	Expedient if possible - -	678-700.
	Yes. Terms to be settled by the court.	1890-1899.
Mr. W. R. Grove	Can suggest no practical mode of assessment.	Note, p. 22.
Mr. M. E. Smith	Can suggest no satisfactory scheme.	1314-1318.
Mr. T. Webster -	Would be desirable. Is now done to some extent by the Privy Council.	2057, 2067, & 2068.
Mr. J. S. Russell	Yes. Royalty to be assessed by special courts.	724, 749, & 750, 782-788.
Mr. J. Platt -	No. Objects to arbitration and to grant of Patent on conditions.	913-926.
Sir W. Armstrong	Yes; assessment by special tribunal in the first instance, with power to amend from time to time.	1182-1219.
Mr. R. Roberts -	No.	1421-1423.
Mr. M. Curtis -	Cannot suggest any practicable scheme.	1538.
Sir F. Crossley -	No - - - -	1589-1602.
Mr. R. A. McFie	Yes. Assessment after the expiration of three years.	1964-1974.
	Written Answers.	Page.
Lord Chelmsford -	No - - - -	180.
Sir R. Palmer -	Yes. Might be a condition on granting Patent. Should be a penalty on wilful non-user.	180.
Sir J. Romilly -	Not advisable or practicable -	178.
Mr. H. Blair -	No - - - -	213.
Mr. M. Henry	Would require Patent to be worked within a given time.	186.
Chamber of Commerce :-		
Leeds - - -	In certain cases - - - -	184.
Luddersfield -	Where Patent not worked within three years, royalties should be settled by arbitration.	184.
Nottingham -	No - - - -	184.
Birmingham -	No - - - -	215.
Mr. G. Jabet	No - - - -	218.
Bristol.		
Bradford :-		
Mr. J. Lister.		
Mr. J. Holden -	Would make the working a Patent within three years compulsory except upon cause shown.	185.
Mr. W. Ecroyd.		
Mr. G. H. Leather	Yes.	--
Manchester :-		
Mr. J. Fletcher -	Yes - - - -	191.
Mr. E. Leigh -	Cannot be done - - - -	182.
Mr. P. J. Linsey-	Should only be so in the case of obstructive patents, on terms to be settled by special court.	183.
Mr. E. J. Hughes	Agrees with last answer -	182.
Patent Law Reform Association	No - - - -	212.
Halifax :-		
Mr. E. Ackroyd -	Would repeal a Patent if not worked within two years, or make licence compulsory.	188.
Messrs. Crossley	No - - - -	189.
Mr. W. Tasker -	No; but Patent where not worked should be repealed.	--
Liverpool :-		
Messrs. McFie -	Yes; or arbitration by the court.	190.
Mr. J. Spence -	No compulsion is necessary -	192.
Mr. J. Farrie -	In favour of compulsion. Sees difficulty in fixing royalties.	--
Mr. John Potter	Yes - - - -	187.
Inventors' Institute	No - - - -	196.
Mr. E. A. Cowper -	No - - - -	210.
Chamber of Commerce :-		
Wolverhampton -	Patentees should grant licences	196.
Belfast - - -	It would be inconvenient in most cases.	199.

Glasgow:—			<i>Page.</i>
Mr. Rankine	-	Yes; upon applicant giving security for payment of the licence.	202.
Mr. Hunt	-	Compulsory licenses are most desirable. Proposes a system of Patent income-tax on which value of license should be assessed.	—
Messrs. Richardson		Yes. If parties cannot agree as to terms, there should be recourse to arbitration.	203.
Mr. Henry	-	Yes.	—
Mr. Finlay	-	No.	—
Mr. Ronald	-	No.	—
Mr. Pattison	-	Yes, if Patents are to be granted only for inventions new in principle. Would have tribunals that grant Patents to fix the amount.	—
		Not necessary under the present law.	
Mr. Brown	-	Not able to answer.	—
Messrs. Wingate	-	Yes.	—
Messrs. Mitchell & Whytlaw.		No.	—
Messrs. Macfarlane		No.	—
Institute of Civil Engineers of Scotland.		Yes. Nothing definite proposed.	—
Philosophical Society.		Desirable, if it can be done	205.

9. Do you think it expedient that Patents should be granted to importers of foreign inventions?

	Oral Evidence.	Question.
Mr. H. Reeve.		
Mr. L. Edmunds.		
Mr. B. Woodcroft.		
Mr. W. Carpmael.		
Mr. W. Spence -	Yes - - - - -	701-704.
Mr. A. V. Newton	Yes - - - - -	1900-1904.
Mr. W. R. Grove	Not to mere importers.	Note, p. 22.
Mr. M. E. Smith.		
Mr. T. Webster.		
Mr. J. S. Russell	No - - - - -	809-818.
Mr. J. Platt -	No, only to original inventors	928 & 929, 931-941.
Sir W. Armstrong	No - - - - -	1220-1228.
Mr. R. Roberts.		
Mr. M. Curtis -	No - - - - -	1539 & 1540.
Sir F. Crossley -	Doubtful - - - - -	1613-1630.
Mr. R. A. McFie.		
	Written Answers.	Page.
Lord Chelmsford -	Yes - - - - -	180.
Sir R. Palmer -	No - - - - -	180.
Sir J. Romilly -	Yes - - - - -	179.
Mr. H. Blair -	Yes - - - - -	214.
Mr. M. Henry -	Yes - - - - -	186.
Chamber of Commerce:—		
Leeds - - -	No - - - - -	184.
Huddersfield -	No - - - - -	184.
Nottingham -	Yes - - - - -	184.
Birmingham -	Yes, if article be made in England.	215.
Mr. G. Jabet	Yes - - - - -	219.
Bristol.		
Bradford:—		
Mr. J. Lister.		
Mr. J. Holden -	No - - - - -	185.
Mr. W. Ecroyd.		
Mr. G. H. Leather	No.	—
Manchester:—		
Mr. J. Fletcher -	No - - - - -	191.
Mr. G. Leigh -	No - - - - -	182.
Mr. P. J. Linsey.		
Mr. E. J. Hughes	Yes, as now.	—
Patent Law Reform Association	No - - - - -	212.
Halifax:—		
Mr. E. Ackroyd -	Only with sanction of a foreign patentee.	188.
Messrs. Crossley -	Yes - - - - -	189.
Mr. W. Tasker -	Yes.	—
Liverpool:—		
Messrs. McFie -	Yes, as now - - - - -	190.
Mr. J. Spence -	No.	—
Mr. J. Farrie -	Not if published first abroad.	—
Inventors' Institute -	Yes. Saving rights of foreign inventor.	190.
Mr. E. A. Cowper -	Not to a mere importer - - -	210.

<i>Chamber of Commerce :</i>		<i>Page.</i>
Wolverhampton -	No - - - - -	196.
Belfast - - -	No - - - - -	198.
Glasgow :—		
Mr. Rankine -	No - - - - -	203.
Messrs. Richardson	For a short period only.	—
Mr. Henry -	No.	—
Mr. J. Finlay -	Yes; but not to exclude the foreign patentee.	—
Mr. Ronald -	Yes; if foreigners do the same to us.	—
Mr. Pattison -	No.	—
Messrs. Wingate & Co.	No.	—
Messrs. Mitchell & Whytlaw.	Yes.	—
Messrs. Macfarlane	No.	—
Mr. Hunt -	Only by foreign inventor or his assignee.	—
Mr. Brown -	No.	—
Institution of Civil Engineers of Scotland.	No.	—
Philosophical Society.	Only to foreign inventor or his assignees.	205.

10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?

	<i>Oral Evidence.</i>	<i>Question.</i>
Mr. H. Reeve. Mr. L. Edmunds. Mr. B. Woodcroft. Mr. W. Carpmæl. Mr. W. Spence. Mr. A. V. Newton. Mr. W. R. Grove	Yes; to inventors, in preference to their agents.	Note, pp. 65, 66.
Mr. M. E. Smith. Mr. T. Webster. Mr. J. S. Russell Mr. J. Platt -	Yes - - - - - To the inventor or his agents -	821. 931, 941, & 942.
Sir W. Armstrong	Convenient upon reciprocal terms.	1229-1232.
Mr. R. Roberts. Mr. M. Curtis - Sir F. Crossley -	To inventors or their agents - To inventors or their agents, on proof of Patent.	1539 & 1540. 1613-1630.
Mr. R. A. McFie.		

<i>Chamber of Commerce :—</i>		<i>Page.</i>
Leeds - - -	No - - - - -	184.
Huddersfield -	System should be regulated by international agreement.	184.
Nottingham -	Only where invention is worked here.	184.
Birmingham -	See answer to Question 9 -	215.
Mr. G. Jabet -	To inventors only - - -	219.
Bristol.		
Bradford :—		
Mr. J. Lister.	To either - - - - -	185.
Mr. J. Holden -	Yes.	—
Mr. W. Ecroyd.		
Mr. G. H. Leather		
Manchester :—		
Mr. J. Fletcher -	To inventors only - - -	191.
Mr. E. Leigh -	Yes; but not to agents -	182.
Mr. P. J. Linsey.		
Mr. E. J. Hughes	Yes, as now - - - - -	182.
Patent Law Reform Association	Yes - - - - -	212.
Halifax :—		
Mr. E. Ackroyd -	To either - - - - -	188.
Messrs. Crossley -	To either - - - - -	189.
Mr. W. Tasker -	To either.	—
Liverpool :—		
Messrs. McFie -	Yes; licences to be granted by agent here.	190.
Mr. J. Spence -	No - - - - -	192.
Mr. J. Farrie -	See preceding answer.	—
Inventors' Institute -	No objection to existing practice	196.
Mr. E. A. Cowper -	Only to authorized agents -	210.

<i>Chamber of Commerce :—</i>		<i>Page.</i>
Belfast - - -	Yes; application to be within given time from date of foreign Patent, and Patent to cease with the same.	198.
Glasgow :—		
Mr. Rankine -	Yes - - - - -	203.
Mr. Hunt -	Yes; with preference to inventor or his assignee for the first one or two years from the date of the foreign Patent.	—
Messrs. Richardson	Yes; if a radical reform is introduced on other points.	—
Mr. Henry -	No.	—
Mr. Finlay -	Yes; if they are worked and made generally available.	—
Mr. Ronald -	Yes; if foreigners do the same to us.	—
Mr. A. M. Pattison	Yes.	—
Mr. W. Brown -	No.	—
Wingate & Co. -	No.	—
Mitchell & Whytlaw.	Yes - - - - -	204.
W. McFarlane & Co	Yes.	—
Institute of Civil Engineers.	Yes.	—
Philosophical Society.	Only to foreign inventor or his assignees.	205.

11. Is it expedient to make any, and if so, what alterations in the law relating to prolongations and confirmations?

	<i>Oral Evidence.</i>	<i>Question.</i>
Mr. H. Reeve -	Can suggest no alteration as to confirmations. Prolongations to be applied for before a special tribunal.	1749-1804.
Mr. L. Edmunds -	Prolongations should be granted by the Lord Chancellor or Lords Justices.	580, p. 16.
Mr. B. Woodcroft. Mr. W. Carpmæl. Mr. W. Spence. Mr. A. V. Newton	Present law to be worked by special tribunal.	1905-1918.
Mr. W. B. Grove. Mr. M. E. Smith. Mr. T. Webster. Mr. J. S. Russell -	Applications for prolongation should be made to special court at the end of three and seven years.	822, 823.
Mr. J. Platt -	Would grant prolongations on conditions.	947-949.
Sir W. Armstrong. Mr. R. Roberts. Mr. M. Curtis - Sir F. Crossley. Mr. R. A. McFie.	Satisfied with present system -	1540.
<i>Written Answers.</i>	<i>Page.</i>	
Lord Chelmsford -	No change - - - - -	180.
Sir R. Palmer -	No change - - - - -	181.
Sir J. Romilly -	No change, unless on appointment of a special court.	179.
Mr. H. Blair -	No change - - - - -	214.
Mr. M. Henry -	No change, except in jurisdiction.	186.
<i>Chamber of Commerce :—</i>		<i>Page.</i>
Leeds - - -	No change [- - - - -	184.
Huddersfield -	No change, except in jurisdiction.	184.
Nottingham -	No change - - - - -	184.
Birmingham -	No change - - - - -	215.
Mr. G. Jabet -	No change, except in jurisdiction.	219.
Bristol.		
Bradford :—		
Mr. J. Lister.	Would increase the facilities -	185.
Mr. J. Holder -		
Mr. W. Ecroyd.	Objects to prolongations.	—
Mr. G. H. Leather		
Manchester :—		
Mr. J. Fletcher -	No change - - - - -	191.
Mr. E. Leigh -	No change - - - - -	182.
Mr. P. J. Linsey.		
Mr. E. J. Hughes	No change, except in jurisdiction.	182.
Patent Law Reform Association	- - - - -	212.

		Page.			Page.
Halifax :—		188.	Chamber of Commerce :—		
Mr. E. Ackroyd -	No change, except in jurisdiction.	188.	Leeds - - -	- Would give right to disclaim provisional specification within six months.	184.
Messrs. Crossley -	No - - - - -	189.	Huddersfield -	- See answer to Question 11 -	184.
Mr. W. Tasker -	No.	—	Nottingham -	- Would give every facility to disclaimers.	184.
Liverpool :—		190.	Birmingham -	- Would make no change - -	215.
Messrs. McFie -	English Patent should expire with foreign Patent in all cases.	192.	Mr. G. Jabet.		
Mr. J. Spence -	Can suggest no alteration -	—	Bristol.		
Mr. J. Farrie -	Can suggest no alteration.	196.	Bradford :—		
Inventors' Institute -	Prolongations and confirmations should be more freely granted.	210.	Mr. J. Lister.		
Mr. E. A. Cowper -	Patents to be for 21 years, without further prolongation.	198.	Mr. J. Holden -	- Would allow additions - -	185.
Chamber of Commerce :—			Mr. W. Eckroyd.		
Belfast - - -	Jurisdiction to be given to Special Judge with appeal to Privy Council.	198.	Mr. G. H. Leather	- Objects to disclaimers.	—
Glasgow :—			Manchester :—		
Mr. J. M. Rankine	Not prepared to answer - -	204.	Mr. J. Fletcher -	- Disclaimer of an essential part not to be allowed.	191.
Mr. E. Hunt -	No change required.	—	Mr. E. Leigh -	- No change - - - - -	182.
J. Richardson & Co	Term to be limited to that in foreign countries.	—	Mr. P. J. Linsey.		
Mr. E. Henry -	Cannot say.	—	Mr. E. J. Hughes	- No change - - - - -	182.
Mr. J. Finlay -	Thinks 14 years long enough, but would not make a change.	—	Patent Law Reform Association	- Yes; disclaimer to be dated with original Specification.	212.
Mr. J. Ronald -	No prolongation.	—	Halifax :—		
Mr. A. M. Pattison	Thinks not.	—	Mr. E. Ackroyd -	- Actions should lie after disclaimer for parts not disclaimed.	188.
W. McFarlane & Co	No suggestion.	—	Messrs. Crossley -	- No change.	189.
Mr. W. Brown -	No remarks to make.	—	Mr. W. Tasker -	- Would allow disclaimer of matter not new.	—
Institute of Civil Engineers.	No change as to prolongations, unless term is enlarged to 17 or 21 years. Abolish confirmation.	—	Liverpool :—		
Philosophical Society.	Cost should be diminished -	205.	Messrs. McFie -		
12. Is it expedient to make any, and if so, what alteration in the law respecting disclaimers and memoranda of alterations ?			Mr. J. Spence -	- Not under the present system -	192.
			Mr. J. Farrie -	- No suggestion to make.	—
			Inventors' Institute -	- Would have greater consistency of practice in allowing disclaimers. Memorandum of addition to be allowed at a small cost.	196.
			Mr. E. A. Cowper -	- Disclaimers are admitted too easily.	210.
			Chamber of Commerce :—		
			Belfast - - -	- Give jurisdiction to Special Judge.	198.
			Glasgow :—		
			Mr. Rankine -	- Not prepared to answer - -	204.
			Mr. Hunt -	- Disclaimers should be allowed without the present trouble and expense. Allow Patents of improvement.	—
			Mr. Finlay -	- Disclaimers in certain cases are useful.	—
			Mr. E. Henry -	- Does not know.	—
			Mr. Ronald -	- Would let Patent stand or fall according to the first Specification.	—
			Mr. Pattison -	- No. Abolish Patent laws.	—
			Mr. Brown -	- No opinion.	—
			Messrs. Mitchell & Whytlaw.	- No opinion on this or preceding Question. There should be an appeal to the Lord Chancellor or Privy Council.	205.
			Messrs. Macfarlane	- Think Patent rights should not be less than 21 years.	—
			Institute of Engineers of Scotland.	- The expenses connected with disclaimers should be reduced.	—
			Philosophical Society.	- Would reduce the cost.	—

		Question.
{ Mr. H. Reeve. Mr. L. Edmunds. Mr. B. Woodcroft. Mr. W. Carpmael. Mr. A. V. Newton	Oral Evidence.	
	No - - - - -	159-162.
	Would allow verbal alteration in claim.	1919-1933.
{ Mr. W. R. Grove. Mr. M. E. Smith. Mr. T. Webster. Mr. J. S. Russell. Mr. J. Platt. Sir W. Armstrong. Mr. R. Roberts. Mr. M. Curtis. Sir F. Crossley. Mr. R. A. McFie.	Written Answers.	Page.
	Objects in toto to either -	180.
	Would make no change -	181.
	Would make no change -	179.
	Can make no suggestion -	215.
	Would increase the facilities to patentees.	186.

MINUTES OF THE EVIDENCE

TAKEN BEFORE

THE COMMISSIONERS

APPOINTED TO INQUIRE INTO

THE WORKING OF THE LAW RELATING TO LETTERS PATENT FOR INVENTIONS.

Thursday, 20th November 1862.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. SIR WILLIAM ERLE.
VICE-CHANCELLOR SIR W. PAGE WOOD.

W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q.C.
WILLIAM FAIRBAIRN, ESQ.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

BENNET WOODCROFT, ESQ., F.R.S., examined.

1. (*Chairman.*) You are, I believe, in charge of the Patent Office?—I am Superintendent of Specifications.

2. For how many years have you held that post?—Since the new law came into operation in the year 1852.

3. Was the office itself created at that time?—It was created by the Act of 1852, the Patent Law Amendment Act.

4. Up to that time, had there been no place of deposit for Specifications?—There had been three distinct places of deposit for Specifications in Chancery, namely, the Rolls Chapel Office, the Enrolment Office, and the Petty Bag Office.

5. After the Act of 1852, were those three offices brought into one?—The Specifications were not removed, but the business of those three offices was conducted in the new office.

6. (*Mr. Fairbairn.*) Were they amalgamated?—No, the Specifications which were, and still are, in those offices, were subsequently printed, and the printed copies were brought into the Great Seal Patent Office, under the Act of 1852.

7. (*Mr. Hindmarch.*) Up to that time they had been enrolled?—Yes.

8. After that time they ceased to be enrolled, but the Specifications themselves were deposited?—The Specifications were filed.

9. (*Chairman.*) Will you state to us the nature of the duties which you have to discharge?—My principal duty is, when required, to advise the Law Officers in cases of reference of Provisional Specifications, and in cases of opposition to the grants of Letters Patent; also to advise the Lord Chancellor in cases of opposition to the sealing of Letters Patent which his Lordship may refer to me. I am Superintendent of the Specification Department, in which an extensive correspondence is carried on, and the whole of the Commissioners of Patents' publications are prepared and published; and in which Department there is also a large public free library. I am likewise Superintendent of the Patent Museum at South Kensington, which is daily open free, and includes a large collection of machines and models, a gallery of portraits of inventors, and a complete set of the Commissioners of Patents' publications.

10. That publication was commenced shortly after the commencement of the Act, was it not, and has continued down to the present time?—Yes, the Commissioners print a variety of documents, besides the

Specifications and indices. They print a journal twice a week, showing the Patents which have been granted all over the world, as well as in England.

11. (*Mr. Fairbairn.*) When did that commence?—I suggested to the Commissioners of Patents in 1853 that a circular relating to Patents should be published on the same days as the London Gazette, to furnish inventors, at considerably less cost, not only with all the notices respecting Patents published in the Gazette, but also with other valuable information. The permission of the Commissioners having been obtained, the first number of the Journal was published accordingly on the 7th of January 1854.

12. Have the indices been published up to the present time?—The indices have been published up to the present time.

13. You still continue to prepare for publication these indices, do you not?—We continue them year by year; in fact we have them brought up in manuscript to the day—any one coming to the office can see what has taken place. If you know the subject-matter, or the date, or the name of the Patentee, you can learn anything up to the latest period.

14. (*Chairman.*) Is it not a fact, that any one coming into your office, and making an inquiry in the proper quarter, can ascertain what is the nature of every Patent which has been taken out since Patents were granted in this country?—Yes, in a few minutes.

15. (*Mr. Hindmarch.*) The fact is, I believe, that you have a general index of all the Patents granted under the old law up to October 1852, and since that time, annual indices of every Patent granted under the new law?—We have, and in addition to that we keep manuscript copies up to the very hour. If a Patent was granted yesterday, we shall have it indexed in three different ways to-day.

16. (*Mr. Grove.*) Do you consolidate your indices at any time?—At the end of the year.

17. (*Vice-Chancellor Wood.*) Does the annual index go to the general index?—It is bound not with it, but separate.

18. (*Mr. Grove.*) The annual index might be bound up with the general index, but you would have to look in two places for a given subject, namely, in the general index of all the past Patents, and in the annual index. At any period do you consolidate the annual indices with the general index, so that in one volume you get the information required?—The volume would be too large.

*B. Woodcroft,
Esq., F.R.S.*

20 Nov. 1862.

B. Woodcroft,
Esq., F.R.S.
20 Nov. 1862.

19. I mean one work?—It is one work.

20. (*Mr. Fairbairn.*) Any person wishing to take out a Patent, can by referring to those indices see whether he has been anticipated in the particular invention or not?—Yes; from the subject-matter index he can find out anything.

21. (*Vice-Chancellor Wood.*) The subject-matter index is regularly posted up?—Yes, up to the day; every morning you see what was finished on the previous day.

22. (*Chairman.*) And in addition to that you are in course of making detailed indices of every Patent taken out?—In addition to that we have abstracts of certain classes; for instance, of all the weaving machines we print a short abstract, having regard to the full Specification. I may here remark that after the preparation of the Appendix to the Specifications of reaping machines, the idea suggested itself to me that the publication of abstracts or abridgments of Specifications, in classes and chronologically arranged, would be of very great importance to inventors. On the 5th December 1856 the consent of the Commissioners of Patents was obtained for the preparation and publication of such abridgments; and the work has been proceeded with to the present time.

23. (*Mr. Hindmarch.*) Is there any fee now payable by persons coming to make inquiry?—No.

24. There used to be, I believe, a shilling by the old law?—In two offices it was a shilling, and in one office, namely, the Petty Bag Office, it was 3s. 6d.

25. (*Chairman.*) At present any person coming within reasonable hours may make his inquiry absolutely without charge; is that so?—Yes, we have a library pretty well filled, and persons have no need of any introduction; it is perfectly free. Knowing how much a library of works relating to Patents and other scientific publications was needed for reference by inventors, I commenced this library with my own collection of books. It was opened, with the sanction of the Commissioners of Patents, on the 5th March 1855.

26. (*Mr. Fairbairn.*) Is there any person there to direct an applicant to any particular book?—There is Mr. Atkinson, the principal librarian, together with two sub-librarians, and several assistant clerks.

27. (*Chairman.*) Have you any means of ascertaining what is the number of Patents which have been taken out since the passing of the new law?—About 3,000 a year.

28. Is that number increasing or diminishing?—The number keeps about the same; I do not think that there is either increase or diminution.

29. (*Vice-Chancellor Wood.*) Do you recollect what the numbers were in the last two or three years before the alteration of the law?—There was a yearly increase from the first granting of Patents to the last year. From 1800 to about 1850 I should think that the increase would be several hundred Patents a year.

30. What would be the largest number in any one year anterior to the passing of that Act?—About 500 to 600 a year.

31. (*Chairman.*) Then the effect of the new law, which materially reduced the cost of taking out Patents, has been greatly to increase the number of Patents?—Greatly to increase the number at first, but they do not increase yearly as formerly. The publication keeps them down to a large extent. I attribute it to the publication; persons find out that they have been anticipated.

32. (*Mr. Fairbairn.*) I suppose that the average has been very nearly the same for some years past?—As nearly as can be. I think that one day last year and one day this year the number was the same, to a single Patent.

33. (*Chairman.*) If I recollect rightly a Patent is now paid for at three different intervals of time?—It is so.

34. There is a payment in the first instance when the Patent is taken out; there is a second payment

if it is continued beyond a certain period?—Three years.

35. And there is a third payment at the end of seven years?—Yes.

36. Shall you be prepared to produce figures showing us the total number of Patents taken out; how many are now dropped at the end of the three years, and how many at the end of the seven years?—I can furnish exact statements of that at a future period.

37. But we may take it generally, that by far the greater proportion of the Patents which are taken out are suffered to expire between the second and the third periods of payment?—Yes.

38. (*Mr. Fairbairn.*) Not many of them come to maturity?—A fewer number than was granted under the old law.

39. (*Sir W. Erle.*) Positively fewer?—Positively fewer; fewer remain after the seven years.

40. (*Mr. Grove.*) Then out of your 3,000 you would have a less number than 500, taking it roughly, at the end of the seven years?—Yes; before the expiration of seven years, in fact.

41. (*Chairman.*) Can you state what is the payment made at each stage?—25l. at the first, then 50l., and then 100l.

42. (*Mr. Hindmarch.*) The 10l. is paid in two sums, is it not?—Yes; 5l. on the deposit of the Provisional Specification.

43. (*Chairman.*) As we understand, those payments collectively cover the whole expenses of the Patent Office, and leave a considerable surplus?—They leave a large surplus.

44. Can you inform us what that surplus is?—I can bring the printed reports. I cannot tell from memory; the report to Parliament yearly states what the surplus is. I should think that there is now a surplus of 120,000l. altogether.

45. A part of that surplus is appropriated, is it not, to the printing of the old descriptions of Patents, those under the old law, so as to complete the history of Patents up to the present time?—Those have been finished for fully four or five years, there is nothing but the current work to be done. There is a surplus of 30,000l. or 40,000l. yearly.

46. (*Mr. Fairbairn.*) Where does that surplus go to?—To the Chancellor of the Exchequer, I conceive.

47. (*Mr. Hindmarch.*) The sums are all recovered in the shape of stamp duties, are they not?—Yes; everything is paid in stamps.

48. (*Chairman.*) The Patent Office publications are distributed, I think, to the various towns and foreign Governments, are they not?—Yes; nearly 200 out of 250 sets printed.

49. (*Mr. Hindmarch.*) Those which are sent to foreign Governments, I believe, are in exchange for copies of foreign Patents which are sent here?—They furnish what Specifications they themselves print, and send us a weekly list of the Patents which they grant.

50. (*Chairman.*) Is it to your office that an inventor comes, either personally, or through an agent, to take out a Provisional Specification?—An inventor may leave his own Provisional Specification, or may employ an agent.

51. But is it to your office that he comes?—Yes, it is not to my Department, but it is to another Department of the same office.

52. (*Mr. Hindmarch.*) Of the Patent Office?—Yes.

53. (*Mr. Fairbairn.*) Are they not generally taken out through an agent?—Yes, generally.

54. (*Chairman.*) And that Provisional Specification gives the inventor protection for a period of six months, does it not?—Yes.

55. At the expiration of that period, if no further step is taken, his protection ceases?—Yes, if he does not file a final Specification.

56. Can you state what is the mode of proceeding usually gone through in these cases?—The inventor usually employs a Patent agent to take out his Patent, the agent usually prepares for him his Provisional Specification and makes his drawings, if any

are required, and also prepares the final Specification for him at the termination of the six months.

57. (*Mr. Hindmarch.*) The first proceeding, I understand, is to lodge a petition accompanied by a solemn declaration and a Provisional Specification?—Yes.

58. That is lodged at your office?—It is.

59. You then send it to the Attorney General, in order to see whether it has complied with the provisions of the Act of Parliament requiring a proper Provisional Specification?—Yes.

60. The next stage, if I understand rightly, is that you get from the Attorney General his certificate that the Act has been complied with?—Yes.

61. You then advertise in the Gazette?—We then advertise in the Gazette.

62. Then within a definite time after that the party seeking to have a Patent, comes and gives a notice of his intention to proceed with his application?—Yes.

63. A fortnight, I think, must elapse before the next step can be taken, which is an application to have a Patent?—Twenty-one days must elapse.

64. And when the party comes to apply for a Patent, it may possibly go to the Attorney General to consider whether a Patent ought to issue or not if there be an opposition?—Yes. It goes to the law officer in any case, whether it be opposed or not.

65. If he reports in favour of the grant of a Patent, you prepare it in your office, and it goes to the Chancellor to be sealed?—Yes.

66. That is a correct statement of the mode of procedure?—I believe that it is quite correct.

67. (*Vice-Chancellor Wood.*) Are fees paid at those different stages; does the party pay a fee when he lodges his petition and his Provisional Specification?—There is a fee paid at the first stage, but I do not exactly know what other fees are paid.

68. (*Chairman.*) I think I have heard it stated, that the first cost of taking out a Patent, irrespective of any payment which may be made to the Patent agent, amounts to about 25*l.*; is that so or not?—Yes, I think that that is the sum.

69. Not including any payment which may be made to the agent?—Not including any payment which may be made to the agent.

70. (*Sir W. Erle.*) Is there a payment to the Law Officers of the Crown, the Attorney or Solicitor General?—Yes, on each Patent.

71. At the stage when the application which you have described is made?—Yes.

72. (*Mr. Hindmarch.*) If I understood rightly there are two offices, namely, the Patent Office and the Office of the Commissioners?—There are two divisions of the Commissioners' office, the Patent division and the Specification division.

73. (*Chairman.*) You have stated that you think that the number of Patents taken out has been reduced by persons studying the earlier Specifications, and finding that they have been anticipated?—I think that, to a large extent, that has been the case.

74. (*Mr. Grove.*) What was the immediate increase upon the passing of the Act. You say that now the number of Patents is about 3,000 a-year, and that it keeps pretty nearly uniform. I suppose that, in the first year after the passing of the Act, there were not so many Patents as that, and that the number rose to 3,000?—In the first year there were more than there are at present. Inventors postponed their applications for a year in order to have Patents at a cheap price.

75. I dare say that you can give us a tabular statement of the number of Patents from the year 1852 annually?—Yes; I can do that, and showing how many fall off and at what stages they fall off.

76. (*Chairman.*) On the whole, then, you do not consider that the number of Patents is increasing at present; you think that it has reached a number which it does not seem likely to exceed?—I do not know to what it is attributable, but this year there

have been a few more Patents; whether or not it is owing to the stagnation of trade and people having nothing to do but to invent, I do not know.

77. (*Vice-Chancellor Wood.*) The Exhibition may have stimulated them a little?—It may; there has been no gradual increase from the first.

78. (*Mr. Fairbairn.*) There has been no considerable increase of *bonâ fide* Patents compared with the old law?—No.

79. (*Chairman.*) Probably you have no data upon which you could come to any conclusion whether a further reduction of the expense of Patents would tend to increase the number of them?—I think that it would increase the number of them.

80. Then you think that, moderate as the first charges now are, there are still a considerable number of persons who would take out Patents, but who are prevented by those charges?—I think that there are.

81. (*Vice-Chancellor Wood.*) You do not keep a distinct entry, I suppose, of whether the inventions are the parties' own discovery, or whether they are imported from abroad; there is no index, I suppose, distinctly showing that?—Yes; we have such an index; under the new law we can see how many came from abroad. I have a table made out from the first of how many have come from America, how many from France, and how many from every other country; I have it tabulated very accurately; and also how many from every county, and how many from each town.

82. (*Mr. Fairbairn.*) Have you formed any opinion with reference to the working of the present law as compared with the old law as regards Patents?—No.

83. (*Sir W. Erle.*) You say that more Patents would probably be taken out if the charges were less. Have you any reason to think that any Patent, which is of interest and value to the public, fails from the inventor not being able to pay the fees?—I cannot answer that question. Wherever Patents are the cheapest, they are the most numerous, such as in America.

84. (*Chairman.*) As I understand, the forms which are necessary to be gone through in order to take out a Patent, are not within your department?—The Patents are not taken out in my department.

85. (*Vice-Chancellor Wood.*) Are there a great many Disclaimers?—Not a very large number considering the large number of Patents taken out. I can furnish the exact number of Disclaimers.

86. (*Mr. Fairbairn.*) I think you stated that a great many of the Patents went to the second payment?—Yes.

87. And that after that they were dropped?—Yes; there is a falling off at every stage.

88. (*Mr. Grove.*) Do you know anything as to the number of Caveats?—There is not a large number of oppositions.

89. (*Mr. Fairbairn.*) Do you think that any investigation of the claims of an inventor is necessary. In your opinion would it diminish or increase the number of Patents, provided that invention was carefully investigated and considered by a proper tribunal?—I think that it would diminish them.

90. Do you think that that course would be advantageous. It would do away with a great number of frivolous and useless Patents?—Yes, but it would be a very difficult machine to work. The Americans pay about 23,000*l.* a year for preliminary examination, and they are very much dissatisfied with it.

91. (*Chairman.*) They have a regular tribunal of inquiry, have they not, into every Patent before a Patent is granted?—Yes, it costs them much more than our printing and publishing, and circulating the information, costs.

92. Are you sufficiently acquainted with the working of their system to say by whom the inquiry is conducted, whether by scientific men or by judges?—By scientific men.

93. (*Mr. Fairbairn.*) Is their decision final with regard to it?—Their decision is final.

94. (*Chairman.*) Do they decide only whether the

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invention is or is not new, or do they also decide the question whether it is of sufficient value to deserve a Patent?—They decide both as to whether it is new and as to whether it is of sufficient value.

95. (*Mr. Hindmarch.*) Have you in your office any copies of the various Foreign Laws relating to the granting of Patents?—We have a copy of every Foreign Law translated and printed in our Journal.

96. And also of the laws which are enforced for that purpose in our several Colonies?—We have a printed copy of each Law which has been passed in the Colonies.

97. I think that several of our Colonies have adopted laws peculiar to themselves for that purpose?—I should think that one half of them have done so.

98. You have spoken of a library. I understand that that is free to all persons who may go to consult the books which are in it?—It is free to every person.

99. Have you considered whether it is a desirable thing to extend that library for the benefit of the public in any way?—I think it most desirable.

100. It is, I believe, a very small space?—The building in which the books are is very small, and confined, and dark; it is very unsuited for the purpose to which it is applied.

101. Do those books belong to the public, or are a great many of them, on the contrary, your own private property?—A large number of them were my own private property; but they were bought by the Commissioners of Patents.

102. Have you given your attention to the expediency of having some building or receptacle set apart for the reception of models of important inventions?—We have for this purpose the "Patent Museum" at South Kensington. I was appointed superintendent of this Museum in December 1856; and it was opened to the public in June 1857. At first the collection consisted wholly of my own models, which I brought to the Patent Office in 1854; but since the transfer of those models to Kensington, great numbers of models and machines have been received from other persons. The Gallery of Portraits of Inventors, now included in the Patent Museum, was commenced by myself at the Patent Office in 1853, with my own collection of pictures.

103. Do you think that that Museum at South Kensington is sufficient for all purposes?—No; it is most insufficient.

104. (*Mr. Fairbairn.*) You wish to have it much enlarged?—Yes.

105. (*Mr. Hindmarch.*) For instance, when a person obtains a Patent in America, is not he at liberty to deposit in the office a model of his invention?—He is bound to do so.

106. Which model may be referred to from time to time, when a litigation arises?—Yes.

107. Have you given your attention to the subject, with a view to consider whether it would be an expedient thing to do that in this country?—I have not; it would require a very large space indeed, and a great many of the inventions may be worthless. I would much rather that there should be a provision in the Act, that any patentee having a Patent granted to him, should, if required, send a model, so as to get real steps in invention, and not colorable ones.

108. (*Chairman.*) Would not those models not only occupy an enormous amount of space, but also after a certain length of time require replacing; and as it would be impossible to come upon the inventors for the repair or replacing of models of old date, would not it be a continual expense falling upon the public?—That would be so with a large number of models, wooden models. I believe that in America they are very glad when a fire burns most of them, that it is a great relief.

109. (*Mr. Grove.*) Have you ever considered the matter in this point of view: taking as an illustration, the model of an improvement in weaving, that model probably would have some reaction going through the whole machine, so that you could hardly give a fair idea without seeing a working model of

the machine. If you give what are frequently exhibited in Courts of Justice, namely, diagram models, or models of a small portion of the invention, it hardly presents to another person a fair idea of the invention?—In some cases it will give you an idea of the whole invention, in others it will not.

110. (*Mr. Hindmarch.*) Take such a thing as a lace machine, which we all know is about the most complicated machinery used in this country, are not the drawings which are ordinarily deposited with the Specifications so very minute, that it is extremely difficult to see what the parts indicated mean. You, yourself, I believe, are well acquainted with that description of machinery?—Yes, I have had Patents myself for looms.

111. Have you not seen very considerable difficulty in making the various drawings sufficiently plain for all persons to understand them?—Yes, but that is at the patentee's risk.

112. But the public are interested?—It would be well if the drawings sometimes were larger and clearer.

113. (*Chairman.*) Your objection to a compulsory depositing of models comes to this—that they would occupy an enormous space—that they would require to be repaired or replaced from time to time at the public cost, and that after all they might, in many cases, give a very imperfect idea of the things which they were intended to represent?—I think so. I should not like to see the office clogged with a model of every machine which is patented.

114. (*Mr. Grove.*) And it would add very considerably to the expense of Patents?—Very considerably.

115. (*Vice-Chancellor Wood.*) With reference to the power of requiring a model, would you give that power simply with the view of ascertaining the reality and novelty of the invention, as regards granting the Patent, or also, with the view of preserving evidence of it for the future, or both?—My view would be to take the great steps of invention, such as the steps made by Lewis Paul, Arkwright, Crompton, and Robeats, in spinning, and by Kay and Cartwright in weaving.

116. Those are great and important inventions?—Yes. Then the next great and important improvement was that of a Mr. Heilmann, a Frenchman, who invented a machine for combing wool instead of carding it. Models of such machines are immensely valuable.

117. Then you would not do it with a view to evidence between parties in litigation?—They would answer that purpose as well.

118. If that be intended, would it not be necessary to have a very careful officer, and great watchfulness over the models, so as to take great care against alterations, or tampering with the models?—Yes; I think that photography would now almost secure against tampering with a model.

119. (*Mr. Hindmarch.*) You think that parties might be required to deposit in the office for public use enlarged drawings, which would show the sort of thing more clearly?—Yes.

120. You consider that to be important?—I clearly consider it to be important that the Specification should disclose the nature of the invention.

121. (*Vice-Chancellor Wood.*) You have said that you think it desirable that a model should be sent to the office if required?—Yes.

122. Can you suggest from your experience in the office any other alteration or improvement in the office which you would think desirable. I mean requiring the assistance of the Legislature?—I think that if there was a simple mode of quashing bad Patents it would be a great improvement. I think that that is a most important thing. The system of preliminary examination has been tried and found wanting. It is in operation in Prussia, but does not give satisfaction. It was tried in France, Austria, Sardinia, and Belgium, but, being most unsatisfactory, was abandoned in each country. It is now going on in America

at an enormous expense, and the Chief Commissioner wrote me to say that it was a very inadequate system, and a very unfair one, that a man's Patent might be knocked on the head the next day.

123. (*Chairman.*) You say that in France the system of preliminary inquiry has been tried and abandoned?—Yes, that is my impression.

124. Do you recollect for how many years it was worked?—I do not know.

125. Or under what circumstances?—It would be with a view of sifting out good inventions from bad.

126. It was a scientific tribunal?—Yes.

127. It was the same in Prussia?—It is the same in Prussia.

128. (*Mr. Fairbairn.*) Is it only the Americans who now adopt it?—Both Prussia and Russia also; but the inventors and authorities in each country are much dissatisfied with it.

129. (*Chairman.*) Others having tried it and given it up?—Yes, the Commissioner of Patents in America wrote to me to say that it was a very cumbrous, unsatisfactory, and unfair mode—it was Mr. Justice Mason—he was Commissioner at that time, and I have his letter.

130. (*Mr. Grove.*) For the preliminary investigation in America, is it *ex parte*, namely upon the representation of the patentee alone, or is any provision made for advertising or giving notice to the particular branch of trade or manufacture with which the Patent is concerned, so that they may in the first instance, so to speak, show cause against the Patent?—I do not know how that is.

131. You think that an easier mode of quashing Patents would be desirable; how would you distinguish between the difficulties which would apply to the old preliminary investigation and the difficulties which would apply to a preliminary quashing; that is to say, the getting rid of bad Patents by a somewhat more summary mode?—There are a great many Patents which I may call still-born, and nobody takes any notice of them; you would have a coroner's inquest sitting upon still-born children; but in the other cases it is only where there is a mischievous Patent, a bad Patent, where a man forces what belongs to the public upon the public again! the public detect it very soon, and it can be put all right. A *scire facias* is a very expensive round-about process. If an invention has been clearly published and given to the public, I think that it belongs to the public, if it can be shown that it has been published in an English book before; I can recollect cases of that sort.

132. (*Chairman.*) Supposing that a Patent has been taken out, and that for three, four, or five years it has been allowed to remain a dead letter, and no step has been taken to introduce the invention for which it was taken out, do you think it would be fair that at the end of the time the Patent should cease to exist on the ground that no use had been made of it?—I think not; many inventors cannot get their Patents into operation until almost the end of their term; there is such a difficulty in getting the public to take them.

133. (*Mr. Hindmarch.*) Is it not the practice in France that the patentee is bound to have the machine in use within two years or some other definite time after the grant of the Patent?—Yes.

134. Is it so in Prussia likewise?—Yes.

135. And in Belgium?—Yes; it must be in public use.

136. The patentee must have one of the machines at work in the country before the end of two years?—Yes. That is a very unfair law. If an Englishman takes out a Patent in one of those countries for a steam-engine, he must carry a steam-engine over and have it at work.

137. (*Mr. Fairbairn.*) Are there not a great number of inventions which require many years before they can be brought to perfection or to anything like practical utility?—Yes, I may mention the extraordinary invention for wool combing instead of card-

ing. From a fleece of wool you can separate the fibres and take all those of equal length from the longest to the shortest and lay them side by side separately. It is a very curious machine. The poor man who invented it died deeply in debt, and he had been labouring, to my knowledge, for 12 years; it was only during the last few years of his Patent that he could get it to work.

138. (*Mr. Grove.*) The best patented inventions are frequently those which come latest into use?—Yes. The poor man in the instance which I have named had struggled and lost a large sum of money by it.

139. Has it ever occurred to your mind whether the law, as it at present exists, that all Patents are granted for an absolute fixed term, namely 14 years at the option of the patentee, should be continued, or whether there should be a tribunal, if one could be found fit to do so, or the Attorney and Solicitor General, if there were no other tribunal, to apportion the length of the Patent to the nature of the invention. For instance, supposing it were a Patent for giving a little improvement to a solar lamp, or something of that sort, you might give a smaller term to it, whereas if it were an invention, such as an improvement in smelting iron, you might give a longer term. Have you ever turned your mind to that point?—I think there is a great difficulty in that. It is only where it can be shown that there has been great labour and a loss of money or no profit that a prolongation is given.

140. I am applying it to a contraction rather than a prolongation?—The patentees would all be struggling for a long period.

141. I put that question with reference to the statement of the difference of degree in which reward comes. For a minor invention, which can be easily applied, the patentee generally gets his reward rapidly, say a little cover put on to a solar lamp; everybody can buy it for 1s. or 2s. 6d., and the patentee gets his reward rapidly; whereas if persons are obliged to alter their factories there is no chance of the patentee getting his reward for 14 years?—You could not well judge whether the invention would take at all, I think.

142. (*Chairman.*) Do you not think that to establish a distinction of that kind would be to give a very large discretionary, not to say arbitrary power to the Executive?—Very much so indeed.

143. (*Vice-Chancellor Wood.*) What would be your view of the mode of improving the jurisdiction for quashing Patents? What sort of course would you recommend? A simple application by motion to one of the Courts?—Yes, a simple application by motion.

144. At whose instance?—At the instance of anyone of the public.

145. (*Mr. Grove.*) How would you prevent its becoming, in fact, a *scire facias* action, supposing the patentee shows cause, and is prepared with a large purse and many scientific witnesses to meet that application?—I am not a lawyer.

146. (*Vice-Chancellor Wood.*) You think that the mode of proceeding should be cheap and easy?—It should be cheap and expeditious. I know of existing Patents which are but old inventions, as old as the hills.

147. (*Chairman.*) Have you any means of judging to what extent Patents are taken out by the inventors themselves, and to what extent the inventions have passed into other hands before the Patents are taken out?—I think that the great majority of Patents are taken out by the inventors themselves. I do not think that there is much fraud.

148. (*Mr. Grove.*) You are speaking of English Patents, and not of imported Patents?—Yes.

149. (*Chairman.*) I was not putting the question with regard to fraud, but I was asking whether, according to your judgment, it often happens that an inventor sells his interest in the invention to some one who has more capital, and that that person takes

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out a Patent for it?—I think that the inventor could not sell his invention before he got a Patent; that no one would buy it.

150. (*Sir W. Erle.*) Is not it often the case, that he takes out the Patent in his own name and immediately sells it?—Yes.

151. (*Chairman.*) I gather from what you have stated, that you are in favour of an extended museum and a larger office?—Very much so.

152. Also that you object to any collection of models upon a large scale, or at least think it unimportant?—I think it unimportant. Selected models are what is wanted in the country; I may give an instance of the steam engines which we have collected at the Patent Museum. We have Patrick Miller's small engine which drove a boat successfully in the year 1788; then we have the first engine which drove a boat for hire in Europe—that is Bell's "Comet," in 1812; then we have a model, by Trevithick, of the earliest English locomotive engine, and also the first locomotive engine which ran with wheels having smooth tires. Then we have Stephenson's "Rocket" which opened the Liverpool and Manchester Railway, and which was the unfortunate cause of Mr. Huskisson's death. Then we have Newcomen and Cawley's engine, to which James Watt first applied his patent condenser and air pump. We have also the first engine which James Watt made to give circular motion by the sun and planet wheels. These are historical and very valuable instances.

153. (*Mr. Grove.*) Have you any other engine of Newcomen's?—We have only the engine which was at Soho. We have Bramah's first hydraulic press.

154. All this class of models of which you have spoken, as a general rule, I suppose, must be collected some time after the invention, when the invention has become fixed in the history of the trade?—Yes.

155. Therefore it would not apply at all to a con-

temporaneous model collection?—No, these are historical models.

156. (*Chairman.*) I further gather from what you have stated that you think that anything in the nature of a preliminary inquiry into Patents beyond what is at present instituted would be inexpedient?—A very expensive, cumbrous, and unsatisfactory machinery.

157. But that you think some simple mode is wanted of doing away with Patents which are of no value?—Yes; and some inventions which are of value, and which are patented, belong to the public, and not to the patentee.

158. I suppose you have not given much consideration to the subject of the manner in which actions and suits instituted by patentees should be tried?—I have not; I have been unfortunately a patentee myself, and I have been in the Courts of Chancery and law, until I got very sick of it.

159. (*Vice-Chancellor Wood.*) Do you think that the system of allowing a patentee to disclaim has worked well or ill?—In some cases it works well, and in others it allows a man to enlarge his Specification.

160. Then on the whole you do not object to it?—No.

161. (*Mr. Grove.*) Is it the case in your judgment that at present patentees draw as it were their Specifications with a view to disclaiming, if occasion shall so require it?—I think that they sometimes claim more than is in the original Specification. I think that that is a fraud.

162. The Courts would deal with that; but what I was more adverting to was the question of practice, whether they put in a great variety of claims with the intention, if necessary, of electing which of their claims they will retain when they find out how the thing works?—I do not think they do that; I think they draw their Specifications at first, claiming as much as they can.

The witness withdrew.

Adjourned to Monday next at half-past four o'clock.

Monday, 24th November 1862.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. SIR WILLIAM ERLE.
SIR W. ATHERTON, Q.C., M.P.
SIR HUGH CAIRNS, Q.C., M.P.

HORATIO WADDINGTON, Esq.
W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

WILLIAM CARPMAEL, Esq., examined.

W. Carpmael,
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163. (*Chairman.*) You are, as I need hardly ask you, a Patent agent?—I am.

164. You have been so, I think, for a considerable number of years?—40 years.

165. Then we may assume that you have had considerable experience in the working both of the present law, and of that which preceded it?—I have.

166. Can you describe to us the process through which an inventor goes under the present law, when intending to take out a Patent?—Supposing he goes to an agent; the agent's duty is, if he is well informed, to advise the inventor, as far as he can, of the novelty and the probable working out of his invention, and to prepare what is called the Provisional Specification. If the inventor does not go to an agent, he prepares that document himself. Then that document, whether prepared by the agent or by the inventor, is deposited, with a petition, with the Commissioners of Patents.

167. (*Mr. Hindmarch.*) And a solemn declaration?—Together with a solemn declaration that he is, according to the best of his knowledge, the first and true inventor.

168. (*Chairman.*) That Provisional Specification

ought to contain as full a description of the invention as can be put upon paper?—As exact a description of the essential features of the invention as can be given. The manner of carrying out and performing the invention is to be given in the subsequent or Complete Specification.

169. Then am I to understand you that the Provisional Specification only states in general terms the object of the invention, and the manner in which it is proposed to effect that object?—I would rather say not in general terms, as regards that which is the essence of the invention, that is in precise terms; anything which goes to its being carried out is in general terms. Then the Complete Specification specifically and exactly points out the manner of performing the invention.

170. (*Mr. Hindmarch.*) The statute, I believe, says that the Provisional Specification is to describe the nature of the invention?—That is so.

171. And that the Complete Specification is to describe both the nature and the manner of performing it?—Exactly so.

172. (*Chairman.*) I presume that in the great majority of cases, Patents are taken out through the

medium of an agent, and not by the inventor unassisted?—In modern times a large number are taken out by persons unassisted by agents.

173. Do you suppose that the majority are so taken out?—I am not able to say; they will be able to inform you at the Commissioners' Office.

174. That part of the process being gone through, what is the next step?—The next step is, within four months of the commencement, to give notice that the Patent is to proceed. Thereupon the Commissioners advertise it for any parties to come in and oppose within 21 days. They advertise it in the Gazette and the Commissioners of Patents' Journal.

175. (*Mr. Waddington.*) Not in the newspaper?—In no other paper.

176. (*Mr. Hindmarch.*) I think that the Chairman wished to know what took place before you gave notice. Is there not some proceeding with reference to the Attorney General?—The documents are referred by the Commissioners to one of the Law Officers of the Crown immediately upon their receiving them, and if the Law Officer, having examined the Specification, approves and is satisfied with the description of the invention, he grants provisional protection. If, on the other hand, he is not satisfied with the document he requires certain additions or alterations to satisfy his mind that the party has given a full and proper statement within the law requiring the nature of the invention to be fully stated.

177. Is not the grant of that provisional protection advertised?—Yes, immediately, and that precedes the calling for opposition.

178. It precedes the notice to proceed?—It does.

179. (*Sir H. Cairns.*) You have had considerable experience of the course taken by the successive Law Officers at this stage of the matter. What is the amount of inquiry which, according to your experience, is generally made at that stage. I will first ask you with regard to the novelty of the invention; an inventor comes into the Patent Office, and the Patent Office submits to the Law Officer three documents, as I understand, first a petition, which will tell nothing, I suppose, but the title of the invention?—Nothing else.

180. Secondly, a Provisional Specification, which will describe the nature of the invention?—Yes.

181. And, thirdly, a solemn declaration that he is the first and true inventor?—Yes.

182. Those are the documents which go before the Law Officer?—They are.

183. Does the Law Officer in practice engage in any investigation as to the novelty?—None, so far as I am informed. I have no reason to believe that he does so at all.

184. Has he any means of doing so?—I should say not.

185. Then what do you consider in practice to be the investigation or the examination which the Law Officer conducts?—The investigation of the Law Officer is with reference to the sufficiency of the Provisional Specification to satisfy his mind that that which the inventor seeks to be patented is fully and fairly described in that document; and the Law Officers, I very often find, require further information than that document contains, or some explanation of what it contains; thus showing that they master each document which comes before them.

186. (*Chairman.*) If I understand you rightly, the Law Officer does not consider it his duty to look beyond the Specification itself?—No, certainly not.

187. (*Sir H. Cairns.*) But I suppose he requires that there should be stated on those papers something which professes to be an invention?—Yes, and that it should be described with clearness.

188. Assuming it to be new, the paper describes it in a way which can be understood?—Yes, and the Letters Patent set out that as it is at the risk of the patentee, whether it is new and useful or not, the Patent is granted.

189. (*Mr. Grove.*) That is in the report, not in the Letters Patent?—It is in one of the documents.

190. (*Sir H. Cairns.*) In practice, do you find these papers which are transmitted to the Law Officer frequently sent back for amendment or reconsideration?—Personally, I find very few sent back; but we have a large number brought to us, more particularly by parties who have gone by themselves to the Commissioners, and where the Attorney General or the Solicitor General has not been satisfied with the document, then the parties not seeing their way clear, very commonly come to an agent to ask him to put their Provisional Specification into a proper form for them; I hear from different parties that a great many of these documents are sent back for further and better particulars.

191. (*Mr. Waddington.*) The object of the Law Officers is to see that the document is clear and intelligible?—Yes, that is the main object, I imagine; I can only judge from the result. I see that the Law Officers must have gone very thoroughly into the documents from the objections they raise.

192. (*Sir W. Erle.*) Has the Law Officer a comparison of the Complete Specification with the Provisional Specification?—No.

193. That is no part of his duty?—It is not.

194. (*Mr. Hindmarch.*) He has nothing to do after the Patent is sealed?—After the Patent is sealed his occupation is gone.

195. (*Mr. Attorney General.*) I think that the Act of Parliament prescribes the duty of the Law Officer, does it not?—Very exactly.

196. And in practice, I believe, (and it has been so I suppose during all the time that you have known the intervention of the Law Officers,) they always require an intelligible description of the invention, and also an intelligible description of some means of effectuating it?—The latter is general, the former is special. The nature of the invention is required to be very specific, and general information is required as to the practice.

197. (*Chairman.*) After the Provisional Specification has passed through the hands of the Law Officer what is the next step to be taken?—Notice is given by the petitioner or his agent that the Patent is to proceed; thereupon, as I stated just now, the Commissioners advertise, requiring all parties having any opposition to make to come in within 21 days; and the 21 days having expired if there be any opposition, which is made by leaving notice of objections at the office of the Commissioners, the papers and documents are again referred to the Attorney or Solicitor General, and he calls the parties before him and hears their respective cases and decides upon their merits.

198. (*Mr. Hindmarch.*) Is not there a fee payable upon the lodging of the petition?—Yes, there is a stamp duty of 5*l*.

199. And when you give notice to proceed, there is another stamp duty?—There is then another stamp duty of 5*l*.

200. (*Sir H. Cairns.*) Can you tell me, in your experience, how many, or what kind of proportion of applications to the Law Officer for Patents have been refused or sent back for explanations, which could not be given?—I am not able to do that, but they will be able to do so at the Commissioner's Office, because they keep a record of all those cases. Mr. Ruscoe will be able to give you every information upon that point.

201. (*Chairman.*) Up to this stage, as I understand you, the total official expenses are only 10*l*.?—The official stamps are 10*l*.

202. And there is no other charge in which the public is concerned?—No other charge.

203. (*Sir H. Cairns.*) What is the process of hearing before the Law Officer, upon an opposition being put in?—The ordinary process is, that the Law Officer sees both the parties separately, and decides between them; but in some cases, where fraud or a stealing of some man's invention by another, or

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anything of that kind, has come out upon solemn declarations, it very commonly happens that both parties go before the Law Officer at the same time and the question is heard and argued before him.

204. What is the reason why, in ordinary cases, the parties are heard separately?—Because the Provisional Specification is supposed to be, and is, in fact, for the first six months a secret document, and it has been so held in a Court of Law, and for that reason the opponent is not to hear or know what the contents of that document are. Parties coming in and to oppose, do so upon any invention which they may possess, without having a previous knowledge of the invention the applicant possesses. This in my opinion is a very proper course.

205. Then is the course this: that the Law Officer has in his hand the Provisional Specification, which you say is a secret document, and that the opposing party comes and makes his objection, and states the nature of his rival invention, or as the case may be, and that the Law Officer compares what is so stated to him with what he finds in the Provisional Specification?—That is so.

206. (*Chairman.*) Then, if there are two parties claiming an almost identical invention, so far as appears from the Provisional Specification, am I to understand you, that the Law Officer tries the case between these two parties judicially?—Yes.

207. Are the proceedings in that case conducted in public?—No.

208. It is a private hearing?—It is a private hearing.

209. But agents are admitted?—Agents are admitted on both sides, and counsel also; there are sometimes counsel on both sides.

210. (*Sir H. Cairns.*) But each side is heard by itself?—Each side is heard by itself; but in some cases the proceedings, previously to coming before the Law Officer, are brought out upon declarations by the parties, so that both parties are then known to possess a knowledge of the whole of the invention.

211. (*Chairman.*) Then, as I understand you, it rests with the Law Officer to decide whether the parties shall be heard separately, and, therefore, whether the Provisional Specification of the one shall be kept a secret from the other, or whether they shall be heard together, in which case each of them must necessarily become acquainted with the invention claimed by the other?—That is so. The ordinary practice is to hear them separately; there are cases where they are heard together.

212. (*Mr. Attorney General.*) Is it not rather that the Law Officer hears them separately, unless, as I think you previously stated, the documents before him show to him that the nature of the new invention as it is called has become known to the opponent?—It is so.

213. Where he has no reason to suppose that that is the case, he hears them separately, because if he were to admit the opponent he could not hear them effectually without the nature of the new invention for which the Patent was applied for being fully disclosed to the opponent, which would be a violation of the secrecy to which you have referred?—That is so.

214. (*Sir H. Cairns.*) Does the Law Officer take evidence?—He takes evidence sometimes in addition to that which he has upon declaration. It is mostly upon declaration; but I have known Law Officers to have the two inventors separately before him, in order to ask them various questions without the one knowing what questions he asks the other, so as to arrive at a conclusion as to the real merits of the case. Sometimes he asks them questions before each other, and has them cross-examined before him.

215. Can he administer an oath?—I believe not; I have never heard of one being administered.

216. You have spoken of declarations; do you mean declarations or affidavits?—By the statute it is obliged to be by declaration; all matters in relation to Patents before the Attorney and Solicitor-General must be upon statutory declarations; the

statute itself directs that it shall be so. I do not mean the Patent Law Act, but the Act which enacts that declarations shall be used in lieu of affidavits.

217. (*Mr. Hindmarch.*) You refer to the Act of the 6th and 7th of William the Fourth?—Yes.

218. (*Sir H. Cairns.*) You have said that the Provisional Specification is a secret document; you are probably aware that there is a statute (not the Patent Law) which enables the Commissioners of Patents to publish the Provisional Specification?—There is, but they have never acted upon it; but on the contrary upon the Commissioners looking into the subject, they found that the effect would be so seriously against the inventor if they published those Specifications at an earlier period, that they determined that it was better for them to stand over for the six months. I was consulted amongst others with reference to the consequences which would flow from an early publication of the Provisional Specification.

219. (*Mr. Hindmarch.*) I believe that that was in the time of Sir Alexander Cockburn being Attorney General?—I think it was; I think that you were present at a discussion with reference to the consequences which would follow.

220. (*Sir W. Erle.*) If all that is known is the title of the proposed new Patent, has not an objector a great deal of difficulty in getting at what may be comprised under a very vague title?—The Attorney and Solicitor General now require very clear titles, and the hardship which strikes your Lordship's mind, I think does not exist in fact. An honest inventor sees an advertisement that A. B. is applying for a Patent for improvements in steam engines; he knows nothing of A. B., but he also has an invention for steam engines; he has a right to go in and oppose, and he does so, and opposes upon the invention which he has. But if he knows A. B., then he may know that he has had more or less communications with him, or with somebody that does know A. B., and that he has or may have communicated his invention to him; then that justifies his going and entering an opposition. On the other hand, supposing that a party applies for a Patent, if the party who has, or fancies he has, an invention relating to the same subject could get sight of the Provisional Specification, he could in many cases so shape his opposition as to bring in the identical invention, whereas not having an opportunity of reading that document, whatever he does bring against the petitioner is fairly and honestly his own invention.

221. (*Sir H. Cairns.*) You think that it conduces to truthfulness and to the power of judging of truthfulness that the objector is not fully in possession of what the precise invention suggested by the applicant is?—I think so, as they are both upon the same grounds; the petitioner does not know what the opponent's invention is, they are both honest inventors of improvements in steam engines, and they both tell him what their inventions are. He having heard both very often, says, Gentlemen, your inventions are not at all alike. In other cases he says, there is a likeness between such and such parts, and unless you can agree with reference to those parts, I cannot grant either of you a Patent for those parts.

222. You would put an objector in the situation of the man who is bound to give the marks and description of a lost article before he can claim it?—Yes.

223. (*Mr. Grove.*) Assuming the titles to be rather more particular than they were, still I believe they are very general, such as "Improvements in Steam Engines"?—Yes.

224. Then the difficulty is whether it is sufficiently indicated to parties who might have an opportunity of opposing the Patent at a comparatively small expense, what the nature of the Patent is. There are many manufactures, such as steam engines, weaving looms, and other things, in which a person would be always opposing if he endeavoured to seek out what the particular invention was?—It is not so in practice; the oppositions of modern times are exceedingly few as compared to the applications.

225. (*Mr. Attorney General.*) Is not the opponent very frequently, I might almost say generally, the holder of a Patent?—Very commonly.

226. He comes before the Law Officer with his invention in black and white?—Yes.

227. On the other hand, the alleged invention for which an application is made is in the hands of the Law Officer also in black and white?—Yes.

228. One being printed between blue sheets, and the other being in manuscript?—Yes.

229. Is it the practice, according to your experience, that the Law Officer then compares the two?—Yes.

230. And sees whether really and substantially the one is so far an anticipation of the other, that the other ought not to proceed?—Yes; that is the practice.

231. (*Chairman.*) Does it ever happen that opposition is raised at this stage by manufacturers or other persons who may consider that they would be impeded in their operations by such a Patent being granted for the particular article?—No; I hardly know an instance.

232. That is not the habit?—Not at all; and the present Lord Chancellor (I do not know that the Law Officers of the present day follow the same rule), said that he would not hear an opposition of that kind.

233. (*Sir H. Cairns.*) What was the ground of that statement?—The ground of it was that he considered he was not sitting there to hear whether the public generally would be damaged by the grant of a Patent, but to hear parties who had competing inventions; and that the question before him was whether he ought or ought not to advise the Crown to grant a Patent as between the parties who appeared before him.

234. (*Mr. Waddington.*) Is it common for the Attorney General to refuse to allow an application to proceed on the ground that it is an infringement of an existing Patent?—Many cases of that sort have occurred in the course of my time. Where the inventions have been substantially identical, then the Attorney General absolutely refuses the second patent, and, indeed, upon my own application when I have represented the preceding patentee, I have induced the Law Officer of the Crown to say to the party applying for a Patent, There is no such material change in the thing before me, comparing it with the original Specification, as to justify me in placing you in a position to bring about litigation. On the other hand, the Law Officers have said to me, True it is, there are matters here which will interfere with your Patent if they are worked without your licence, but there are also other matters here which are represented to me to be such important improvements, that it is my duty to grant the Patent, and leave the parties to their remedy.

235. Would the Attorney General grant the Patent if he considered it an arguable case?—If it were merely an arguable case he would hardly do it, but if he felt that there was a separate and distinct invention described, as well as parts of an invention in a previous Patent, he would grant the Patent to the party for that which was new and distinct from the other, leaving the other party to his remedy. There might be something which was an improvement upon a previous Patent.

236. (*The Attorney General.*) Then the Patent would be for an improvement?—Yes.

237. Which improvement involves probably in its working the use of the substance of a former Patent, but has something by way of improvement super-added, the result in law being that the super-addition cannot be used under the former Patent without the consent of, or paying a royalty to the second patentee, as without that there would be an infringement?—Yes. I will take the instance of a case which Chief Justice Erle tried, namely, the celebrated case of *Lister v. Leather*. That was the wool-combing case. Heilman had invented a mode of scaling with wool, so as to take off wool by nippers in detached tufts, and

Lister in his Patent was obliged to use nippers of a like kind, but carried the process so immensely beyond what Heilman had done, that he took out his Patent for his improvements, and it was necessary to disclaim in the Patent of Lister that which was contained in the Patent of Heilman, but he was obliged to use it.

238. (*Mr. Waddington.*) What was the decision in that case?—The decision was that Lister's Patent was upheld as he did not make a claim to, but only used that which he had purchased from another man, namely, Heilman. There was in a previous action a verdict finding that Lister's machine was an infringement of Heilman's Patent, by reason of the nippers. Lister's Patent was granted for that which was in excess of Heilman's.

239. (*Sir H. Cairns.*) Supposing the Attorney General refuses leave to proceed, is there any appeal?—There is no appeal.

240. So that the Law Officer has this to consider, that if he refuses leave to proceed the applicant has no further opportunity of having his case heard, whereas, if he gives leave to proceed and there are objections, there will be other stages and other modes by which a person who objects can have an opportunity of urging his objections?—The Law Officer in giving his decision will very often say, This is a question of such doubt in my mind that as there is a remedy for one party and not a remedy for the other I grant this Patent, though I have some considerable doubts in my mind in doing it. I have had that said by a Law Officer to me. He will therefore always lean to the petitioner, who has no remedy if his application is refused.

241. (*Mr. Waddington.*) It is only in a very clear case that the Law Officer refuses the application of an inventor?—Yes.

242. (*Mr. Grove.*) I suppose you cannot any more than you can upon the other point on which the question was asked tell us how many applications have been refused?—No; I have been in several cases where it has been done, but they are few in number if you take the whole of them.

243. (*Mr. Hindmarch.*) If the Law Officer reports in favour of the petitioner the party opposing has the right of appeal to the Lord Chancellor?—Yes; the petitioner cannot go to the Lord Chancellor if the Law Officer refuses the application; but if the Attorney General reports in favour of the petitioner, and the other party is dissatisfied, then he may by entering a caveat at the Great Seal Office, appeal to the Lord Chancellor.

244. That, I believe, is old practice?—That is old practice, and it has been also modern practice; it is so by statute.

245. (*Chairman.*) What is it that is ascertained by the inquiry before the Law Officer?—He ascertains whether the inventions are alike. If they are not alike, then the party opposing is dismissed. If they are alike, and if it is represented to the Law Officer that there has been any improper action on the part of the petitioner to the prejudice of the opponent, then the Attorney or Solicitor General acting judicially decides as he may think the weight of evidence may lie on one side or the other.

246. If, in the great majority of cases, as I understand from your statement to be the fact, there is no opposition, what security against abuse is gained to the public by the circumstance of this inquiry taking place?—That the grant is made upon an intelligible document—beyond that nothing.

247. That inquiry nevertheless involves two-fifths of the whole expense which is incurred in taking out a Patent?—No, about one-tenth.

248. (*Sir H. Cairns.*) Supposing that when the applicant advertises that he is going to proceed, there is no opposition, nobody entering a caveat; there is no further inquiry?—There is no inquiry.

249. It goes on as a matter of course?—It goes on as a matter of course, and the Patent is granted.

250. So that in an unopposed case, if I may use the expression, the only time when the Law Officer

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takes cognizance of the papers before him is upon the occasion when they are first lodged?—It is so.

251. At that stage the sum of 5*l.* is paid to the general funds of the Patent Office?—Yes.

252. And then upon the second turnpike or stage, when there is a notice to proceed, another 5*l.* is paid to the general fund?—Yes.

253. (*Mr. Waddington.*) You have not told us the fees to the Law Officers?—I have not got them here; I forget all about them now that we do not pay them personally.

254. (*Mr. Grove.*) In looking at the Provisional Specification, do the Law Officers do anything more than judge *ex facie*, that is to say, that upon the face of it, it appears to be a sensible document. Supposing, for instance, it should contain a great blunder in mechanics, they do not go into such a question as that?—The Attorney and Solicitor General's clerks have come (whether upon their own motion or of those whom they represent, I do not know) to ask me for the technical meaning of several expressions, and I have written them down for them; therefore, I imagine, that the Law Officers do look even deeper than that. From time to time I have had the clerks come to ask me the meaning of a paragraph, or the meaning of certain mechanical and chemical terms in processes. I think it is very possible that the Attorney and Solicitor General may have required their clerks to get information as to the nature and meaning of those words.

255. (*Mr. Attorney General.*) Does not the Act of Parliament in dealing with the duties of the Law Officer, in express terms empower him to call in the assistance of persons of skill?—It does.

256. And probably you have known that in intricate cases mechanical or scientific assistance has been frequently resorted to?—Yes, frequently in modern times. I have been often spoken to by the present Lord Chancellor (when Attorney General and by other Law Officers also), with reference to the state of a particular manufacture, and with reference to general information, to enable him to judge of a document; he has not called me in with regard to the document, but he has spoken to me with regard to the present state of the manufacture, to obtain the general knowledge he requires.

257. The Law Officer may resort to what I may call skilled assistance, and is empowered to direct what fee shall be paid for the assistance?—Yes, and he has done so from time to time.

258. (*Mr. Waddington.*) I suppose he is to be satisfied that it is an invention, and that it is likely to be useful to the public?—Yes, he takes the latter for granted: he desires that to be clearly indicated to him, which on the face of it appears to be the description of an invention.

259. (*Sir H. Cairns.*) Have you ever considered the question of whether in practice there could be a satisfactory preliminary examination into all the points which constitute validity in a Patent before the Patent is granted?—I have, and I gave evidence upon that point before a Committee of the House of Lords, I think in 1852.

260. Will you be good enough to state to us your opinion upon that point? At present Patents are taken out, as we understand from your evidence, upon a mere examination of the papers for the purpose of seeing that the invention is there described, and persons who complain of the Patent are left to their remedy afterwards. As an alternative I put to you this proposition, do you consider it desirable that before a Patent is granted there should be a preliminary public investigation into the merits of the invention which is alleged, its novelty, and every other detail with regard to it which would constitute the validity of a Patent when granted?—That would be, in fact, according to my judgment, trying a Patent cause before a man gets his Patent.

261. Be it so. What is your opinion upon that point?—I cannot imagine anything more pernicious

to the progress of invention than that. I cannot imagine its working well.

262. You are aware that it has been very frequently proposed?—I have heard such an investigation proposed, but I never heard the proposition before that it should be a public investigation.

263. When I say "public," I mean, of course, an investigation to which everyone interested in the matter would have access?—I imagine that it would be this; that supposing I was an agent for a Patent, it would be advertised that I was applying for a Patent for such and such things, any parties having objection to it would come down and urge their objections, they having the full power of seeing my Provisional Specification on all points.

264. I have not said anything about the Provisional Specification. Suppose that this is proposed: that before a Patent should be granted there should be a Board of experienced and competent men who should consider whether the invention which is alleged is new, is useful, and is properly described?—The document describing the invention would be a Specification.

265. In your opinion could an investigation of that kind be effectually conducted without publicity; could you effectually tell whether an invention claimed was new or not without publicity, inviting evidence and comments upon it?—I have not ingenuity enough to imagine how it could possibly be carried out, either for the benefit of the public, or for the benefit of inventors.

266. (*Mr. Grove.*) You have stated that there is a certain investigation which takes place, and in a certain sense a judicial investigation; an investigation at which the opponent is heard. Suppose that the Law Officers of the Crown, or any other Board were to make that amount of investigation which should satisfy them that *prima facie* there was a case of merit, entitling the petitioner to a Patent, not precluding the opponent from subsequently litigating the matter, but to inquire into it, so as to see whether it was a matter upon which the Crown ought reasonably to grant a Patent primarily. Have you considered the question in that point of view?—Yes.

267. That would be an extension of what is now done, but it would be on a somewhat larger scale, and so far public that opponents might have an opportunity of being heard, not necessarily finally to destroy the Patent, but to see whether there were any *prima facie* grounds for granting it, the onus of which would be upon the patentee?—Then I can imagine this state of things arising, that if such were the practice, there would be very many cases of trade and individuals in trades constantly opposing so that none but a rich inventor could ever hope to get a Patent against such a phalanx of opposition. I cannot imagine it.

268. (*Mr. Hindmarch.*) Can you see any benefit accruing from such an inquiry?—I do not see it myself, but if a suggested benefit were put to me, any benefit which has been suggested by parties making such a proposal, I should be able at once to give you my opinion of the probability of producing that beneficial result.

269. Would there be any disadvantages arising from it?—As at present advised, I should say that it was all disadvantage, and that there was no possible benefit.

270. So far as the public are concerned, would the public gain anything by it?—On the contrary, I should say that they would lose by it; parties in the particular trade would always oppose the grant of a Patent. I might mention one town, with respect to which it is not too much to say that no invention could ever be applied for without a certain body in that town coming down and opposing it; they would oppose every application, and there would be no chance of an inventor of moderate means ever getting a Patent.

271. And with regard to inventors themselves, I conclude from what you have just said, that they

would not be benefited by any such inquiry?—It would be the very worst thing for an inventor, and for a poor inventor in particular. A man of large means might be able to fight it out: but a man of small means never could.

272. Do you think that any person or persons conducting such an inquiry, could have the requisite amount of knowledge of preceding inventions, and extent of uses, to enable them to come to a right judgment?—I can only say that I do not know of the existence of such persons. There are very few men who have devoted their lives to the inventions which come out day by day in the various manufactures. I believe that I am acquainted with every one of such men, and I know them to be very few who would be able to sit in a Board of that kind and decide such questions. But then, they are all interested from their own professional positions. I cannot imagine your finding men capable of doing it who are so separate from professional occupation as to justify their being put into the judgment seat and still retain their professions.

273. (*Mr. Grove.*) Would you grant a Patent without any restriction for anything which the law now calls an invention or an improvement, provided it be fairly described on the face of the Specification?—Undoubtedly. I believe that that is the least of the evils; that it is better to grant a Patent upon the risk of the inventor as to whether his invention is new and useful than to attempt to investigate his invention, which may never come to anything, and yet if the investigation is made in every case it would cost a great deal of money without a proportionate benefit to the public or to the inventors.

274. (*Chairman.*) Then you see no inconvenience in a multitude of temporary monopolies being created, a very large proportion of which are for inventions of so trifling and so worthless a character that it is not found worth while by the inventors themselves to continue their Patent beyond the first three years?—Forty years experience has shown me that there is no prejudice whatever in granting these Patents. I have no hesitation in giving the most decided opinion as to there being no prejudice to the manufacturer or the public by these Patents being granted.

275. (*Mr. Grove.*) Or to the inventor himself, he being led on by his Patent frequently to an expenditure which turns out to be unavailing, and drawn away from his trade or his occupation?—There is no doubt that a man getting a Patent is very fond of his own child and it will lead him into large expenses, and so it would if there were a preliminary investigation; he would fight to the death rather than lose his child, and he would ruin himself in that early fight, in all probability, quite as fast as he will ruin himself in carrying out a useless invention.

276. (*Sir H. Cairns.*) Which of the two evils would be the greater, that a man who thinks that he has an invention should pay 10*l.* for it and get protection, and then at the end of a couple of years find, from no public notice being taken of it, that it is not as valuable as he supposed; or the other evil, that, believing that he has an invention of value, he should embark at the very outset in a controversy with opponents' trades, as you say, and other persons interested, and expend money in that preliminary contest?—The last would be the greater evil. The first, practically, is a very moderate evil indeed.

277. (*Sir W. Erle.*) How is it that there are large bodies with large funds and great skill ready to contest every Patent unless the Patent is an enormous nuisance to them?—Whenever a Patent is of large value and absorbs a large portion of that particular trade, and manufacturers have to pay a large Patent rent if they wish to use it, they count the cost of paying the Patent rent or fighting the Patent and endeavouring to get it without.

278. That is in the case of a successful and valuable Patent, but there are persons who are ready to fight every Patent?—I have not found it so in practice; that is not so in any branch of manufacture, so far as

I am acquainted. There are occasions where a trade will join together in a common purse to fight an important invention, but I do not know any such instance as your Lordship has suggested.

279. (*Mr. Grove.*) I assume with you that in the case of an important invention which requires royalties from parties they will combine and litigate it, but we are now speaking of the common run of inventions, of which but a comparatively small number are carried further than Patents being applied for. I understand you to say that in certain trades combined bodies oppose every Patent, good, bad, or indifferent?—I said that one town would, were there such a preliminary investigation as to give them any chance of success by so doing, oppose all Patents applied for in relation to the manufacture of that town, because there are certain bodies of men in that town who oppose every Patent, and would always endeavour to upset every Patent, and they publish that fact to the world.

280. (*Mr. Waddington.*) Supposing that a preliminary investigation of this kind were adopted it would be necessary to constitute the tribunal by Act of Parliament, and to define its powers. I apprehend that there is nothing in the present law to provide for it?—There is nothing in the present law which would enable you to do it; it must be by statute in some shape or other.

281. (*Sir H. Cairns.*) I suppose that the great object of a preliminary inquiry, supposing it were thought desirable, would be to ascertain whether the invention was new; is there anything in your opinion which would be made the subject of a preliminary inquiry which would be so important as that?—I do not know of any other matter of the same importance. What I understood on the former occasion, when I was examined before the Committee of the House of Lords, was that parties wished to put it upon the same system as that on which it is now conducted in America and Prussia, but more particularly America. There they do investigate and profess to point out whether the invention is new or not.

282. (*Mr. Waddington.*) What tribunal investigates the matter in America?—The Commissioner of Patents in America has a large staff of what are called examiners at the Patent Office. Every Petition and Specification is handed over to one of these examiners, who examines the Specifications, and also examine, or profess to examine, every Specification, every book and publication that is written upon the subject, and everything that is known, and then having gone through this investigation they report upon each application. When all this is done they do not profess to give you a perfect Patent which is not to be fought hereafter by reason of this previous investigation, on the contrary the Patent is just as open to be fought in a court of law after it has gone through that investigation as if no such investigation had been gone through. The object there is to reject inventions if they do not find them new.

283. (*Sir H. Cairns.*) According to that description of what is done in America, it comes to this, as I understand, they trust to the intelligence and research of some one person, to whom the duty is deputed, to say whether there are prior traces of the inventions in publication?—Yes.

284. It is nothing more than that?—Nothing more; and then if they refuse an application, which they frequently do, there are a series of appeals to the Judges of the Court; and, so far as I am informed, the objections of the examiners are overruled sooner or later if sufficient trouble be taken, and the Patents granted.

285. Does it exhaust the question of novelty to look through publications?—They have the Specifications of this country, of France, and of every other country.

286. Does that exhaust the question of novelty; might there not be a prior user of an invention of which you would not find any trace in publication?—It would not exhaust it at all. The same manufac-

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Esq.

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ture might be carried on even within 100 yards of the examiner, and he know nothing of it; in fact an examiner could never be informed of all that was being done in the workshops of the country; such preliminary investigations could only be carried on at a large cost to the country, and yet be of no use afterwards in the investigation when the Patents come to be tested in a court of law.

287. (*Chairman.*) When you speak of testing the novelty of an invention, it is no other test of it than that no similar invention appears in the Patent Office?—Or in any of the printed books which they have.

288. It is, of course, impossible to inquire into what is done in every workshop or factory in the country, and to verify the fact that there is no such invention employed?—One of the best and most efficient Commissioners whom they ever had reported to Congress that the examination was cumbersome and inconvenient, and that it entirely failed of any beneficial object; and I believe that it must at all times fail, because we have not at any period that I can remember had men whom you could have put into the office, paying them a reasonable salary, who could have investigated the matter with any value; and, practically, it is only making the public pay for an investigation which every inventor should go through for himself, more particularly now that in most cases he can go into a public office in his own town wherever he happens to live, and read without the payment of any fee every Specification for which a Patent has ever been granted upon any given subject; therefore it is, in fact, asking the public to be diligent for that man who is not diligent for himself.

289. (*Mr. Grove.*) You would grant a Patent for a thing, although it was notorious old to the knowledge of the parties granting the Patent and to all the world. You prefer that as the least of two evils?—That is the least of two evils, so far as my knowledge goes, as no one can be injured by a Patent that is notoriously old.

290. As I understand the working of the matter in America it is this, that if there is any doubt, as the Law Officers of the Crown do here, the patentee has the benefit of it, and it must be litigated hereafter, and that they only refuse where the Patent appears obviously to be something which has been already before the public?—It goes further than that. Patents are frequently refused in America by reason of the mis-information of the examiners, where the inventions have been undoubtedly new, and the parties have, therefore, had to contest them in order to get the Patents granted. Examiners often cannot appreciate the materiality of what appeared to them to be a very small difference between that which exists and that for which a Patent is applied.

291. My question had not reference to the particular working of the thing in that way, but whether the intention or object was to reject only those inventions about which no apparent doubt existed, whether they do it rightly or wrongly is another question?—It is the object, undoubtedly, to reject that which is decidedly old.

292. (*Mr. Waddington.*) For which Patents had been taken out before?—Yes, or which any book on the subject had promulgated to the world before.

293. (*Mr. Hindmarch.*) Mr. Grove put to you the question whether it would be a lesser evil to grant a Patent for a thing notoriously old. According to the practice in this country I believe that a Patent cannot be obtained for anything which is notoriously old if it is brought to the knowledge either of the Law Officers or of the Lord Chancellor?—Certainly not.

294. I believe that in the case of the crane at Hartlepool a Patent was refused because it was notoriously old?—Yes.

295. It becomes a question of degree as to what constitutes a thing notoriously old?—Undoubtedly; but I say that it is better that Patents should be

granted for things which are old rather than that a preliminary investigation should take place, such as Sir H. Cairns has suggested. On the other hand I think that a number of unimportant Patents being granted a small evil compared with a preliminary investigation of each application.

296. (*Chairman.*) You do not, then, conceive that there is any great inconvenience to the public in a multitude of frivolous Patents being granted?—No. I believe sincerely, that there are more parties advised not to take out Patents by parties in the profession than there are those advised to take out Patents. I believe that other professional men do as I do—that, wherever they can advise a party that his invention is old, or that he will not succeed, they advise him not to take out a Patent; and I believe that the larger number of Patents which are taken out which do fail belong to those unfortunate men who, as soon as they have an idea, run to the Patent Office to secure it.

297. Your argument is this, that the good sense and the discretion of the Patent Agent is in itself a considerable check upon the multiplication of useless Patents?—I believe that it is. I know it to be so in my own office, and I think that the Law Officers of the Crown will say that my documents, generally speaking, are such that they have at any rate on their face a probable future.

298. (*Mr. Grove.*) As I understand you, you think that the investigation resulting in the advice of the Patent Agent, which is in fact a preliminary investigation or opinion, is a better mode of getting rid of the bad Patents than any investigation by any board or tribunal?—In place of a better I think that that is the best.

299. (*Sir W. Erle.*) Does not the whole of that exclusion of frivolous Patents depend upon the skill and integrity of the Patent Agent?—Very largely.

300. Assume an unskilful or an unconscientious Patent Agent, a multitude of frivolous Patents would be poured in?—It does not depend primarily upon the Agent, but upon parties who are determined if they can to get a Patent. There is no obstruction which you can put upon certain men which will stop their having Patents if they can by any possibility get them.

301. (*Chairman.*) And I presume that the class of men who are most anxious to take out Patents for inventions which other people do not consider of much value, are just the class of men who would consider themselves most aggrieved and be most likely to make it the subject of complaint if, by the operation of the Law, they were restricted from so doing?—That that is so I will give your Lordship an instance. I had a party introduced to me a day or two back by a gentleman, and I advised him in the most strenuous manner not to take out a Patent. He came a second time and I went through his invention again, and I again advised him that he should not take out a Patent. Last Saturday I received a letter from the gentleman stating, with an apology to me, that the party whom I had so advised not to take out a Patent had gone and taken one out through another Agent. You will very commonly find, that wherever a Patent Agent raises objections or difficulties against a party taking out a Patent, he goes off and gets one himself. Men have such an affection for what they consider a new invention, that nothing will stop them from getting a Patent; they will not investigate, they will not take the ordinary care of a man of business. There are certain classes of inventors, or men who imagine themselves to be inventors, whom you cannot restrain from taking Patents.

302. (*Mr. Waddington.*) Do you consider that, besides the great evil of multiplying these useless Patents, as respects multiplying the records there is a great evil to the public?—I do not think that there is any great evil to the public; the evil is to the parties who are silly enough to incur the expense of them.

303. (*Mr. Grove.*) Do you consider it no evil to a tradesman who has filled his shop with a stock of goods that he should receive a notice from a patentee that it is an infringement of his Patent, giving him the option of either destroying his stock of goods or contesting the matter at very great expense in a Patent action?—That is an evil which you can never get rid of; that does not come of worthless Patents, but, on the contrary, of good Patents.

304. It may come of any Patent which the patentee thinks a good one, or in which he thinks he can succeed?—Undoubtedly it may; but you cannot prevent it by any means when once a man can get a Patent whether it is good or bad.

305. (*Sir H. Cairns.*) The case which Mr. Grove puts is this. Supposing that I have been manufacturing by a particular process for the last 20 years, and that according to that same process I have filled my repositories with a large stock of goods, and that a few weeks ago, without my knowing anything about it, some person has gone and got a Patent for that identical process which I have been following for 20 years past, and that having got that Patent he sends me a solicitor's letter, to inform me that he is the proprietor of that process, and that no person else must use it, and that he understands that I have filled my shop with goods made according to that invention, as he terms it, and that he will commence proceedings against me unless I surrender, or pay him a royalty; is not that an evil?—It is an evil; but it is the same as with any other property. A man may make a claim to it, and you must resist it. You would answer by your solicitor, who would say, "My client has been doing that which he is now doing for 20 years, and therefore he declines taking any notice of your communication."

306. But it might result in a law suit?—It might result in a lawsuit; and if he added, "And you are at liberty to come and see how he has at all times manufactured the article," I do not think that the claimant would proceed with a lawsuit if he had an honest adviser; and if he did, the costs to the manufacturer would be very small indeed if he confined himself to the one sufficient defence—that he had done the same thing long before the date of the Patent.

307. (*Mr. Grove.*) Take the case of frivolous Patents as there are now, such as a Patent for a shirt frill, or for the shape of the rim of a lady's bonnet. Suppose that the Patent is taken out for certain new fashions in bonnets, or in shirts, and that the patentee writes and says, "This is my invention;" it is an invention for a very minute thing, and a considerable sum of money may be thrown away in defending your right to have these shirt frills, or these ladies' bonnets?—I know of no remedy for those sort of things at all.

308. (*Mr. Hindmarch.*) Does not that rather open out this question, whether it is advisable or inadvisable to grant Patents for very minute subjects, because the minuteness of the subject in the question put by Mr. Grove seems to be the chief objection. In your judgment is it at all desirable that Patents for such trivial subjects should be granted?—My opinion is, that in the cases which Mr. Grove has put there is, to begin with, no manufacture, and therefore by the law as it now stands there could not be a valid Patent.

309. In your opinion is it desirable to refuse to grant Patents for subjects merely because they are minute?—On the contrary, some of the minute have been some of the most beautiful, and most valuable to the country and to the inventor. The quantity of invention, or the size or nature of the thing, has nothing to do with its value. An improvement in the formation of a pin or a needle may be one of the greatest importance; the article is small, but the manufacture is enormous.

310. (*Mr. Grove.*) I used the term "frivolous" to avoid that point. I was assuming a frivolous invention, but still an invention which in the existing

state of the law would be the subject of a Patent, of which we have known several so adjudicated, but which would be more perhaps a matter for registration?—Just so.

311. (*Mr. Hindmarch.*) In various Specifications which have been published to the world, even in describing inventions which possibly might be deemed frivolous, have not there been important communications made to the public as to modes of manufacturing which you could not find described in any other way?—Very often, indeed.

312. There are very often modes of manufacturing used by patentees and inventors which you could not find in any book whatever?—Very often.

313. When a man makes his Complete Specification he must describe his invention, and he describes things of that sort?—Very often in making what would be almost called a frivolous thing, a very important process or system of machinery or of mechanical instruments is used which becomes of great value to the public, though it has been applied to what might comparatively be called a frivolous article in the first instance.

314. And in that way have not those Specifications become the vehicle of very important information to the public?—No doubt of it; there are very many cases of that sort.

315. Does it not very often happen that one man in a trade, say the wool manufacture, knows nothing about what is going on in the manufacture of cotton?—Yes.

316. If he happens to see a Specification in an analogous branch of manufacture, he gets information which is very valuable to him?—Yes. That very thing happened in Heilmann's case; he contemplated originally combining cotton and wool, but the adaptation of his ideas to waste silk and flax became a very valuable consequence of his original invention. At present I advise every manufacturer, as part of his library, to have a copy of every Specification that comes out relating to his particular manufacture, and that is one of the greatest benefits of publishing the whole of the Specifications. Manufacturers now come and consult a professional man with a degree of information and knowledge of the real state of their manufactures far beyond anything which they had previously to 1853.

317. (*Chairman.*) Are copies of those Specifications to be obtained cheaply?—Very cheaply indeed. I believe that the rule is merely to charge the cost price with a mere nominal addition. I believe that no profits are made out of the printing; those documents are marvellously cheap.

318. (*Sir H. Cairns.*) They are sent to public libraries?—Yes, and they are sent to nearly all manufacturing and other towns where there is a library open to the public, a mechanics' institute, or any institution where the public are admitted; that is done for the purpose of keeping them before the public.

319. (*Mr. Waddington.*) Does your experience suggest to you any mode of improving the present practice of the investigation by the Law Officers of the Crown up to the point to which we have now gone?—I am not at all prepared to advise anything with regard to improving it. I believe that it works very well; they have the assistance of a very skilful man if they want information in a mechanical or manufacturing point of view, in Mr. Woodcroft, whom they from time to time call in, and I believe that he is a most efficient officer. If the Law Officers want more information than they get from him, they never hesitate, so far as my experience goes, to call in men external of the office, and pay them for any report which they may make to them. That has been the practice, and I at present do not see any way to improve it.

320. (*Sir W. Erle.*) Is it necessary to have such powerful officers as the Attorney and Solicitor General to ascertain whether an inventor has used perspicuous language in his Provisional Specification?

W. Curpmæl,
Esq.

24 Nov. 1862.

W. Carmichael,
Esq.

24 Nov. 1862.

—I should say that if it only rested upon that it would be putting a steam engine in action to kill a fly, but it goes further than that, the Attorney and Solicitor General acting in behalf of the Crown in these grants, very often have very difficult and very serious matters of right between individuals to decide, and therefore their minds are brought up to the work by the very cultivation which they are constantly getting from the documents which come before them.

321. (*Mr. Attorney General.*) There are questions of Disclaimer and *scire facias* to repeal a Patent and the ordinary question of opposition to which you have adverted?—A great many of the questions are of that class which require the highest ability and a judicial mind to deal with. I have again and again had cases before the Attorney and Solicitor General of the greatest difficulty.

322. (*Mr. Hindmarch.*) And in order to give satisfaction to the various suitors who are seeking Patents and opposing Patents, is it not in your judgment necessary to have an officer of some high character, quite of as high standing as the Attorney and Solicitor General?—I think so. I must confess that having had experience from Sir John Copley (the present Lord Lyndhurst) down to the present time, I am not prepared to suggest, and my experience would go against suggesting any other tribunal to deal with those matters. I do not say that because there happen to be two gentlemen here who have filled the office; on the contrary, I have said it again and again for the last 30 years upon different occasions when I have been called forward to give evidence upon the subject.

323. So far as your experience has gone, has not the operation and management of the Patent business given satisfaction to the public, and all persons interested?—I believe so, most completely; I never heard, from those who really know what the matter is, an objection raised to the efficiency and the completeness with which that business is done, or any objection to the Law Officers being the parties to do it.

324. (*Mr. Waddington.*) Are appeals to the Chancellor numerous?—They are very few indeed; much fewer in modern times than they used to be in olden times. With a far less number of Patents applied for, there used to be a larger number of oppositions, in proportion to the number of Patents applied for, both before the Lord Chancellor and before the other Law Officers. I used to have cases before the Attorney and Solicitor General two or three times a week, when but 400 Patents in a year were applied for; but in modern times, when some 3,000 applications are made, I do not meet them perhaps, once in two, three, four, or five weeks.

325. (*Mr. Hindmarch.*) In your experience is not that very much lessened by the fact of the extensive publication of Patents?—I think that it is.

326. (*Chairman.*) Do you consider that the expense which is at present incurred in taking out a Patent operates as any considerable limitation upon the numbers taken out?—I think not. I think that the first cost now errs on the side of being too small, rather than of being in excess. If I gave an opinion at all with regard to expenses, I must say that I think the second payment of 100*l.* is a tax without justification. The first payment is 50*l.* at the end of the third year; the second payment is a tax of 100*l.* at the seventh year.

327. That is not a second payment, but a third payment?—It may be called a third payment; the early payments are in getting the Patent; but the first payment after getting the Patent is 50*l.* at the third year; the second payment, as I call it, is 100*l.* at the seventh year.

328. We may take it, I think, that irrespective of any fees which may be paid to the Patent Agent, the expense of getting a Patent in the first instance, in an unopposed case, would be about 25*l.* or 30*l.*?—25*l.*, and if it is opposed it would be about 30*l.* The stamp duty in getting a Patent, including the complete specification, is 25*l.*

329. And you consider that the last payment of 100*l.* at the end of seven years is objectionable?—I think that it is objectionable; I think it is unfair as a simple tax put upon the patentee. The object of doing it is to eliminate Patents which cannot afford to pay it.

330. That is to say, to clear the way of a multitude of monopolies, which are of no value to the persons taking them, and which may be an annoyance to the public?—Yes; but the 50*l.* payment has weeded out most of the useless Patents.

331. Do you think that that is a legitimate object of taxation?—My own opinion is that it is hardly a legitimate object; and I have known several cases of valuable and good Patents, or which ought to be good Patents, that have not proved beneficial to the parties up to the seventh year, and it has been that outlay which has become the turning point, namely, whether they should pay that 100*l.* or not. A large number of people think that if a new and good invention is brought out, everybody is ready to use it. Nothing is more fallacious than that opinion. I have known inventions of the highest merit go, after diligent effort to get them into existence, for 12 or 13 years without a shilling of return, and in the fourteenth year they have begun to promise; then the parties go to the Privy Council to ask for a renewal. We have had many cases of that kind, of good and valuable inventions, and I have had, as I say, several instances since the present Law has been in existence where the 100*l.* has been the turning point whether the man should go on with his invention or not. I say that that is an unfair tax in those cases, and that the benefit, on the other hand, of getting rid of the incumbrance of a supposed monopoly is not an equivalent for that state of things.

332. (*Mr. Hindmarch.*) I believe that in some branches of manufacture newly invented it is even necessary to create a new class of workmen?—It is necessary to create a new class of workmen, and to create everything to introduce the work.

333. That necessarily consumes a large portion of time?—Yes, and capital and anxiety.

334. (*Chairman.*) Do you suppose that the abuse which you complain of would be diminished if, instead of requiring the payment of 100*l.* down in one sum, it was spread over a number of years?—I would say that if it is for the purpose merely of a second time weeding out or getting rid of the Patents which really and truly have no virtue in them at all, if a tax of 25*l.*, or any other moderate sum, were imposed, that would do all the duty of clearing off useless Patents, and yet leave an honest and real patentee to fight through the difficulties if he saw his way.

335. Might not this be done, instead of a payment of 50*l.* in one sum, might not there be a payment, say, of 10*l.* for a period of five years, and instead of the final payment being 100*l.*, might it not be a payment of say 20*l.* for five years more?—I have a great objection to annual payments. I have known French Patents to drop out by the mistake of an individual as to the day or as to the hour of paying up the annual taxes, and therefore I would rather have whatever is to be paid to be paid at a time certain, and not by an annual payment. I am always afraid of periodical payments, because I have seen so much evil come of them in France and other countries.

336. On the ground that a mere casual neglect causes a man to lose the benefit for which he is paid?—Yes, the accident of sudden illness in going across the water between here and France, or anything of that kind, or some miscarriage, has caused valuable Patents to be lost, because there is no retrieval.

337. (*Sir Hugh Cairns.*) There are no days of grace?—There are no days of grace. If you introduce periodical payments make a fine for not paying to the day, but do not void the Patent by reason of nonpayment. I do not care what the inventor has to pay or when he pays it, but I must say that the effect of the nonpayment on a given day is a most serious evil under any circumstances.

338. (*Chairman.*) Then your objection is not so much to the payment being demanded as to its being enforced under the penalty of losing the Patent if there is any delay in the payment?—When it comes to so large a fee as 100*l.* I object to it; with a smaller one I should have no objection to its being peremptory to the day.

339. Do you think that the first cost of obtaining Patents is too great?—I think not. I rather think that if it had been put up higher in first cost we should have had less of those Patents which Mr. Grove has referred to, namely, for frivolous matters which we should all be glad to get rid of. I think that we should have less of them if the inventors had to pay more for them. I ventured to predict before the Committee of the House of Lords in 1852 that we should have a large quantity of those Patents, and we have them, and that is by reason of the very cheapness at the outset, but I do not say now go back to a large sum, though I advocated a larger sum in those days. I did not want a very large sum, but I did want to go to a larger sum than that which is now charged.

340. Then the only objection which you have to to the system of payment as now made is that the second and third payments are too high?—The renewal stamp duties, I think, are too high. They are too high for the purpose of simply getting rid of useless Patents, whilst they do injury to parties who are short of money and who are at greater or less cost for working out their inventions.

341. (*Sir H. Cairns.*) Does that observation apply to both payments?—Yes. I should have preferred to have the first payment 25*l.* and the second 25*l.*

342. To reduce the 150*l.* to 50*l.*?—Yes. I see that the patentee now more than pays for the cost of granting his Patent, and I do not think that the inventor should be taxed simply as an inventor. I am not aware of any principle upon which a man should be taxed simply because he has brains.

343. (*Chairman.*) That is to say you think that, he should not be taxed beyond the amount necessary to keep up the Patent Office?—Yes, and all the consequences of it.

344. You, I suppose, would not dispute that the Patent system should be made self-supporting?—Not in the slightest; on the contrary I would go up to the fullest extent, because I think it is for the benefit of the patentee that a considerable sum should at starting be paid for every Patent, otherwise it lets in those insignificant matters which you cannot very readily keep out if the price is so very low.

345. (*Sir H. Cairns.*) You have stated that you do not think that the multiplication of Patents is a great evil. Assuming that individuals should be inconvenienced by Patents, which they consider invalid, do you think that it would be an advantage to have some cheaper and easier mode provided by which they could repeal a Patent or set it aside?—I think that there might be modes of dealing with Patents by which you could call them into question inexpensively; that is to say, less expensively, than by a writ of *scire facias*.

346. With regard to a writ of *scire facias*, is that an expensive remedy?—A very expensive remedy.

347. Supposing it to be successful, what is done with respect to the costs; does the party prosecuting the writ ever get the costs from the unsuccessful party?—If the writ is successful he does not. The Crown does not receive or pay costs. The patentee may get his costs, or a portion of them, because the Attorney General requires a bond from the prosecutor, in order to protect the patentee.

348. That is to say, that if the Patent is maintained the proceedings may be dismissed; but if a member of the public, who wishes to set aside the Patent succeeds in doing so, then he gets no costs?—Then the Crown does not receive costs.

349. It is an expensive process, and the party who puts the Crown in motion, if successful, gets no costs?—Just so; he gets the pleasure of working the

invention with the rest of the public, he being a public prosecutor out of his own purse.

350. (*Mr. Waddington.*) Supposing he fails, does he pay costs?—Yes, substantially, because he gives a bond to the Attorney General.

351. (*Sir H. Cairns.*) In your opinion, would it be desirable that there should be a mode by which a member of the public, who thinks that a Patent is invalid, and feels it to be irksome, should be able at once to bring the question to issue, whether it is valid or not, and if he proves it to be invalid should recover costs from the patentee?—If it were a cheap remedy, I should say that it would be a desirable thing, but at present I do not know of any cheaper remedy than the writ of *scire facias*.

352. There is no cheaper one at present?—But, supposing that you could have a Court to try that question at a reasonable cost both to the prosecutor and to the inventor or patentee, it would be desirable, for the benefit of the public, and also for the benefit of the patentee, because at an early period you would stop him from going to outlays to which he would otherwise be induced to go, under the supposition that he had a valid Patent.

353. (*Mr. Grove.*) You have not, I suppose, thought enough of the subject to suggest any mode by which that object could be cheaply effected?—No, I am not at present prepared to suggest any. The system at the present time of trying Patent causes is so disastrous in its consequences as to money matters that I am frightened at it; it is an increasing quantity every year, and not a diminishing one. I can remember a time when we used to go into Court to try a Patent cause in a comparatively simple way, and there was not half the paraphernalia which there now is. We got through it in the course of a few hours, and people were quite as well or more satisfied than they are now when we are three days or a week in trying a Patent cause.

354. (*Sir H. Cairns.*) What is the reason of the increased time and expense?—That is a very long subject. I shall be very happy to go into it step by step. I think that you must take the writ of *scire facias* as one part of the whole question of trying Patent causes; I cannot at present sever the one from the other. At present I do not see my way to the matter being any different than trying a Patent action.

355. You will be able at some future period to give us or to tell us where we can conveniently find the expense which has been occasioned by different Patent actions?—I shall be able to obtain, if you wish it, a great deal of such information by inquiring of several solicitors with whom I have been engaged in various Patent causes.

356. I did not mean so much particular causes as the litigation upon particular Patents. We know very well and see every day that Patents are the subjects of a great many actions?—I mean upon one simple action.

357. (*Mr. Attorney General.*) Is the expense of the process of *scire facias*, independent of its involving a trial, considerable?—No.

358. Therefore, when you speak of a *scire facias* being expensive, you include the expense of trial?—It is the trial; it is not in getting to issue, but it is after issue is joined where the expense is incurred.

359. Therefore, the proceeding by *scire facias* is expensive in the same way and for the same causes which make the trial of an ordinary Patent cause between A. B. and C. D. expensive?—Precisely.

360. (*Mr. Waddington.*)—Are not proceedings by *scire facias* very rare?—In modern times they are very rare, because the patentee has the reply. Formerly the Crown had the reply, so that up to a very few years ago no Patents ever stood a writ of *scire facias*.

361. (*Mr. Hindmarch.*) You have not yourself been personally connected with taking out the process in the Patent Office?—I have nothing to do with it.

362. You have said that it is not very expensive, but you do not speak from your own knowledge?—

W. Carmichael,
Esq.

24 Nov. 1862.

W. Carpmael,
Esq.
24 Nov. 1862.

I can give you one instance where a great deal of money was spent even in the preliminaries because there have been such things as going before the Master of the Rolls to deal with preliminary stages. That cost a great deal of money. Mr. Attorney General put to me whether, ordinarily speaking, getting to issue is a costly matter: I say no.

362. (*Mr. Waddington.*) You do not put the objections to the Patent upon the record, I suppose?—The parties are bound to do so. In *scire facias* they are in the writ itself; they are part of the record; they are obliged to serve them with the writ. In

scire facias they are so to speak part of the declaration; the writ in substance is almost the declaration.

363. (*Mr. Grove.*) There are a good many interlocutory proceedings which occasion some degree of expense, as for instance amending notices of objections, amending particular branches, and matters of that sort?—Yes, both in *scire facias* and in action for infringement. The question is a serious one, and one which requires to be looked into, because it is a growing expense in all Patent trials; every year seems to make them more costly than they were previously.

The witness withdrew.

Adjourned to to-morrow at half-past 4 o'clock.

Tuesday, 16th December 1862.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR W. ATHERTON, Q.C., M.P.

SIR HUGH CAIRNS, Q.C., M.P.
HORATIO WADDINGTON, ESQ.
WILLIAM EDWARD FORSTER, ESQ., M.P.
WILLIAM FAIRBAIRN, ESQ.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

WILLIAM CARPMAEL, Esq., further examined.

16 Dec. 1862.

364. (*Chairman.*) At your last examination you spoke of the growing expense of Patent trials, and you said that every year seemed to make them more costly than they were previously; will you explain that statement?—I perfectly remember the statement, and I maintain the opinion which I then expressed.

365. Can you explain why they are every year more costly than they were previously?—In order to determine that we ought to begin with the manner in which a Patent action is now brought, and the manner in which it is tried. Formerly there was simply a plea of not guilty, and every objection or defence a defendant could raise could be brought forward under that plea. Now in order to prevent the surprises which occasionally occurred in these trials, it has been required that the defendant should give notice of every objection upon which the Court is to judge of the want of novelty of the invention, or the want of sufficiency of the Specification of the Patent. In addition to that, since 1853 all the Specifications of Patents have been published, and the cost of copies of them is exceedingly small. The Commissioners have also published abstracts of Specifications. In drawing the pleadings the pleaders have these abstracts and indexes of the Patents before them, and they put in to the objections every Specification relating to the subject, this being for them a safe and easy expedient, but it loads the case with much that is foreign to the issues. Then again the Common Law Procedure Act requires that in declaring the plaintiff shall give with his declaration particulars of breaches. Now, unless those particulars of breaches are very specific and pointed to the cause of action it increases the difficulty of the defendant, who has to guard himself as respects every construction which it is possible to put on the Specification. The law of infringement is this: If a Patent be taken out for a system requiring several consecutive operations, or processes, or if it be for a combined machine, and the combination of the whole is new and is that which is patented, the law holds that the validity of the Patent shall be tested on the whole being new and useful; but a party becomes a wrong-doer if he uses any one portion of that system which was new in itself, independently of the combination, so to speak; and therefore if the averment or the statement in the particulars of breaches be general, the defendant may be found guilty of infringing anything which is found in that Specification which was new at the date of that Patent. The defendant, in order to stop out or to eliminate everything which he himself is doing from

being held to be an infringement, gets up a defence consisting partly of Specifications, partly of publications in print, and partly of pre-users by other manufacturers; and therefore the great source in my opinion of the growing cost of Patent actions, and the increased time which they take in trying is the want of point and exactness in the issue which has to be tried between the parties when the case comes into Court. Now in the Courts of Equity we have found that in consequence of the manner of drawing bills of modern time, and the averment in those bills setting out the thing complained of, in a short and clear statement, which is sworn to on the part of the plaintiff, and then on the other side the defendant and his witnesses bringing with point and exactness the matters which they have to offer in defence, and these being again very concise and closely expressed, we get at a far closer issue. Therefore the great thing in my opinion with regard to the statement of the procedure in the Common Law Courts is to devise some mode by which the cause of complaint should be exactly defined. Then having the cause of complaint exactly defined, the defendant would only require to put upon defence one of two things, either that he was not doing that which he was charged with doing, or that the thing had been done before, and he would not place before the Court, as he now does, 10, 20, or 30 Specifications of previous Patents, as well as other publications, directed to many different points. Now the effect of the want of point and exactness in the pleadings is this: As soon as the plaintiff's solicitor gets the notice of objections on the part of the defendant he purchases all those Specifications, and he places them before some party competent to advise as to their contents, and as to their bearing on the Specification and the complaint of the plaintiff. This investigation costs a great deal of money, and it must be done by every scientific or manufacturing witness whom he proposes to call before the Court of Law. Then the plaintiff must have counsel instructed, with heavy briefs and consequently with heavy fees upon those briefs, for the counsel will not be satisfied to go into Court unless he be made tolerably well acquainted with the contents of each and every of those publications. Hence this is in some cases a perfectly Herculean task for the counsel as well as for the parties instructing them. If on the one hand the plaintiff were confined to a precise expression of the cause of complaint, and if on the other hand the defendant were not permitted to put in any of these publications without giving a

short explanation of the exact point upon which he relied, which was said to be contained in those publications, then I think that a Judge would find that a Patent action was not, or ought not to be, heavier than any other action which I can imagine, or with which I am acquainted.

366. Then, if I understand you rightly, you think that the principal fault of the present mode of procedure is that the patentee when he comes into Court to defend his Patent is not required to state with sufficient accuracy the precise point in which he considers that it has been infringed?—That is so, and it very often happens that the defendant has not the slightest notion, until he hears the counsel state it with exactness in opening the case, what the precise point of complaint against him really is. A barrister stated to me yesterday, in regard to a case in which I had recently given evidence, that he had not known the exact cause of complaint up to the time when my evidence was given, and I was the last witness.

367. (*Sir H. Cairns.*) You have spoken of the increased expense of Patent actions, and I gather from your explanation that the alterations which have been made in the pleading have been intended at all events to bring about what you desire?—Precisely; nothing can be better than the theory of the pleadings; the plaintiff has to draw up his particulars of breaches; if the defendant is not satisfied he takes out a summons before a Judge at chambers. The general answer to the requirement on the part of the defendant for better and further and more exact breaches is this: the Judge says, "Why, you have got the plaintiff's Specification, and you must know all about it." That would appear at first sight to be a very reasonable and proper answer, but when you come to test it in fact it seldom happens that a defendant is accused of infringing the whole of a system or the whole of a combination, but he is accused of infringing some special portion of the combination or some special new character which that combination brings out. Therefore, the defendant's machine may appear to an unpractised eye to be entirely different until some one portion is set apart from all the other portions, and on comparing that with something in the Specification of the plaintiff, you find either a substantive exactness or positive exactness; and I should say that in most of the cases which are tried that is the class of infringement which comes before the Court; it is a constructive infringement and not an infringement of the whole for which the Patent has been taken out.

368. Is it your opinion that the alterations to which you have referred, which have been made in the pleading, have rendered trials at the present day more expensive than they were before those alterations, or that those alterations have lessened the expense to a certain extent, but not so much as one would desire to see it lessened?—My opinion is, that the new system of pleadings as carried out largely increases the cost of Patent actions coupled with the circumstance of the publication of all the Specifications, which allows of a mass of supposed defence being readily got up, and thereby largely increases the expenses; it is the multitude of Specifications which are put in answer which create the expense.

369. (*Mr. Waddington.*) Then, would you revert to a declaration without any assignment of breaches?—Certainly not.

370. Why not?—You would leave everything open, and would be subject to surprise when you got into Court for the first time.

371. Would not that be more expensive than the present mode?—It would be less expensive in the immediate trial, but you would have new trials; and on the second trial you would not be sure that the same or only the same defence would be brought against you as you had on the first, otherwise a first trial would be the best possible way to get a correct issue to try in the second trial.

372. I presume that the plaintiff is not now allowed to give evidence of any infringement which is not

distinctly described in his notice?—Certainly not; but the notice is in such general language that it traverses the whole Specification.

373. (*Mr. Attorney General.*) You mean the particulars of breaches?—Yes.

374. (*Mr. Waddington.*) Cannot you apply for further and better particulars?—Yes; you apply to a Judge; but the Judge is wholly unacquainted with the contents of the Specification, and is not informed that it may be only a part of what the defendant is doing which is similar to a part of that which is in the plaintiff's Specification.

375. (*Sir H. Cairns.*) Supposing that the plaintiff gives particulars of breaches 50 in number, and that expenses are incurred on both sides in preparing evidence, and that he fails upon 49 but succeeds upon one, of course he gets a verdict; but how are the costs of setting up 49 long breaches dealt with?—If the essential issue is found on the part of the plaintiff the costs paid by him will be exceedingly small as compared with the costs to which he has put the other side. I will give you an instance. Supposing that the plaintiff is nonsuited, the statute states that a defendant shall only recover costs in regard to such of his objections which he has proved, as certified by the Court. If a plaintiff is nonsuited the defendant can recover none of his costs with regard to all the ordinary evidence of want of novelty and want of infringement, because the defendant has not developed his case and the judge cannot certify.

376. Do you mean that if a patentee sues an alleged infringer, and the defendant says, "I have not infringed, and in addition to that your Patent is not new," and gives notice of various other Specifications showing that the Patent is not new, and has his witnesses ready to prove his case, and the plaintiff fails upon the opening of his case on his own showing, and is nonsuited, the defendant has no power of recovering costs?—He has no power of recovering costs in getting up his defence to prove that the invention is old and that he was not an infringer.

377. What costs does he get?—Only the general costs of the suit, which are very small compared with the whole.

378. (*Mr. Waddington.*) He would not get the costs of the issues raised upon those particular things?—No.

379. (*Mr. Attorney General.*) They are not disposed of on a nonsuit?—No. The Judge has to certify under the statute to enable costs to be recovered that the defendant did prove, and to make a schedule of what has been proved by the defendant.

380. You are aware, no doubt, that the present system of pleading, namely, giving the particular breaches and the notice of objections, is all provided for by the 41st section of the Act of 1852?—Yes.

381. Previously to that I understand you to say that the pleading was the general issue simply?—Yes.

382. That of course gave no particular information of any kind to the other side?—Not of any kind.

383. Not even in general terms?—No.

384. Neither was the declaration accompanied by anything which gave any precise information at all?—No.

385. Therefore I take for granted that as far as regards the communication of information by the plaintiff to the defendant with respect to the breaches, and by the defendant to the plaintiff with respect to the affirmative defences or other defences, more information is given by the present system than was given previously?—Yes.

386. You have adverted to the publication of Specifications at the Patent Office, as having turned out to be a means in your judgment of increasing expense?—Yes, in contesting Patent actions.

387. I presume you mean that a reference is made easily to those various Specifications by industrious and ingenious persons, who see whether from a great mass of Specifications they cannot pick up some one or more which may bear upon the case, although they

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may not have been in any one's contemplation at the time of the infringement?—Precisely.

388. Supposing the old system of pleading to have continued, namely, the mere general issue and a mere declaration, but this system of publishing the Specifications to have come into use, can you say whether the evil of which you now complain would not in all probability have ensued and in an aggravated form?—I think it possible that it would.

389. Having regard to the provisions of the 41st section of the Act of 1852, are you prepared to suggest any improvement. I understand that you would not go back to the old system?—Certainly not.

390. Can you suggest any improvement in either of these two respects, that is to say, the delivery of particulars of breaches with the plaintiff's declaration and the delivery with the defendant's pleas of notice of objections?—In regard to the particulars of breaches I have already stated that I entertain a very strong opinion that the plaintiff should be bound to give a precise definition of the thing which he complains of on the part of the defendant, the same as he now does when his counsel comes into Court and defines before the Court and jury the exact issue which he is going to put upon the defendant to answer. If we had that on the part of the plaintiff, then on the part of the defendant I would require that whenever he is going to put into evidence the Specifications of preceding Patents, or a publication of any sort, he should give as regards each of those documents a statement of what he is going to prove out of them to meet the issue which the plaintiff has put upon him.

391. Then I understand you, as regards particulars of breaches, the language of the statute being that the "plaintiff shall deliver with his declaration particulars of the breaches complained of," that if the law were altered you would have some expression which would make "particulars," more precise?—Yes. There was the case which was tried some time ago, that of *Lister v. Leather*, with reference to combing wool, and which I referred to in my former evidence.

The defendant's machine when the case came on for trial appeared to an unpractised eye, and even to men well informed on these questions, to be a totally different machine from that of the plaintiff, but the moment that the proposition was put forward by the present Lord Chelmsford (then Sir Frederick Thesiger) that the accusation was the putting the dirty ends of half cleaned tufts of wool into a comb it narrowed the matter into an exceedingly small question, aye or no, was it new to put a dirty-ended tuft into a comb? if not, any machine containing that system of action contained that which was the essence of the plaintiff's invention. Now had the breach or breaches set forth that fact in exact terms as it was set forth when it subsequently came before the Court, there could have been comparatively little difficulty in trying that issue; whereas it was one of the most costly actions that was ever fought. It is true that it was a trade fighting against an individual.

392. (*Mr. Fairbairn.*) Did that apply to the combing machine?—Yes; it was *Lister's*.

393. (*Mr. Attorney General.*) As to notices of objection on the part of the defendant, I understand you that you would require that amongst other things he should point the objections?—That he should point the objection to the issue.

394. That is to say, that referring, say, to a former Patent granted to A.B. in 1852, he should not simply refer to it by title, and name, and number, but state in terms in what way he considered it to be an anticipation, or in some other way to invalidate the plaintiff's Patent?—Yes; for instance, the defendant might say, "I am doing precisely that which is described in that Specification, and I intend to use it at the trial, saying that if I am infringing the plaintiff's Patent then the plaintiff's Patent is invalid, as it claims that which previously existed."

395. Is it the practice in giving notices of objection simply to refer to the previous Patents enumerating them by date and title?—Usually it is so; and

then the plaintiff goes to a Judge at chambers and the Judge at chambers looks at the Specification and says, "This is a very heavy Specification, and a large number of things are described in it; you must mark the pages and the drawings on which you intend to rely." This is very commonly answered by the defendant saying "I intend to rely upon the whole."

396. And in practice is it known to you that that has been allowed to pass as a sufficient compliance with the statute?—Constantly.

397. Have you ever thought of suggestions by which greater particularity in the breaches, and greater precision in the notices of objection, might be to some extent ensured by provisions with reference to costs?—I think they might be so ensured to some extent.

398. That is to say, casting upon the plaintiff who gives particulars of breaches which he does not sustain, and upon the defendant who gives notices of objection which he does not sustain, the whole weight of the costs of those matters as if they were distinct matters of pleading?—That would have a certain effect upon it; but you are aware of the difficulty which a Judge has in certifying in a trial all that has come before him. The difficulty would be the increased burden put upon the Judges with regard to costs, and I am afraid that the benefit would be very little.

399. Would not the effect of a provision as to costs be preventive, in your judgment, so as much to diminish the number of particulars of breaches and of notices of objection?—I think so to some extent.

400. Then if that were so there would not be the same embarrassment on the part of a Judge as there is with the present multitudinous number of breaches and objections?—Possibly not; at present there are but one or two breaches attached to a declaration.

401. But the objections are very numerous?—Yes; I have seen as many as 100 objections branching out to some 10 or 20 heads in each objection.

402. (*Sir H. Cairns.*) Is there any way in which the complication of these objections and particulars of breaches of which you speak can be checked, except by dealing with costs. Let us put this case,—of course before a trial comes on the Judge cannot try the question in advance. Supposing that a defendant chooses to say, "I rely upon every sentence in a particular Specification taken out ten years ago for the purpose of showing that your Invention is not new;" what is a Judge to do? Is he to say, "It is quite impossible that every sentence can be material and useful; show the particular sentence or sentences?"—That is why I stated that I would not allow the sentences or the parts of the Specification to be given, but I would have the defendant give a statement of the exact point or points which he intended to prove out of the Specification with reference to the issue put upon him, every invention is capable of being stated in a few words.

403. Suppose he says, "The Specification is in the words and figures following; and I really say that that is the very Invention for which the plaintiff has a Patent?"—I can only answer you in this way with regard to things of that sort: when I am sitting as an arbitrator, counsel, parties, and witnesses do not visit me with a mass of Specifications, and where they have given notice of these things they frequently do not produce them at all.

404. That is to say, they give notice beforehand that they will use them, and when the case comes to trial they do not use them?—Yes; for this reason, that they will not insult my judgment by producing a quantity of documents before me which they know I can read and decide for myself their nature.

405. Is not it now very often the case that a defendant who has given a great many notices of objection does not actually bring them forward when the trial comes on and brings forward very few?—

He very often brings forward comparatively few ; at other times the parties bring forward a large number, and they cross-examine and examine witnesses on both sides with reference to them, by which there is such a cloud at the end of the case, and Judges and juries are so confused, that they have not the slightest notion what they have to decide.

406. But that does not occur where you are sitting as an arbitrator ?—I have never found it when I have been sitting as an arbitrator. An arbitrator can make the parties define as closely as he pleases.

407. (*Vice-Chancellor Wood.*) You are aware that the defendant may not only prove a want of novelty in the particular part of the Patent which he is accused of having infringed, but may prove a want of novelty in any part of the Patent in order to be a defence to the action even if he has infringed a particular part, and if the particular part which he has so infringed happens to be new ?—Yes.

408. Then you would apply your mode of procedure to all the rest of the Patent, namely, that if he finds a Patent containing five, six, or seven inventions, and wishes to dispute three or four of them, you would make him specify the ground upon which he objects to the novelty of every other part of the Patent ?—Yes ; if a Patent has six claims of invention, and he wishes to attack No 1. for want of novelty, I would not allow him simply to say, "Such a Patent was taken out at such a date which destroys the novelty of the plaintiff's Patent," I should require him to say "I bring forward that Specification with a view to prove that No. 1, which is a claim on the part of the plaintiff for doing so and so, is found and contained in the Specification produced."

409. While the matter is in a state of pleading, before the parties have got to the distinct issue, and before the Judge has distinct control over the case in trying it, suppose the defendant says, "I mean to rely upon the whole Patent," how would you enable the Judge to deal with that objection, is he to hear that objection before trying the case, or afterwards ?—My own feeling is that you must give the Court additional power with reference to dealing with pleadings before they get into Court. I think that a Master of the Court, or some such person, aided by some proper officer, who should understand the manufacturing or the engineering, or mechanical character of the question, should determine the pleas before they get into Court.

410. That would be a preliminary hearing on that part of the case ?—Not a preliminary hearing of the case, but the plaintiff and defendant should be bound to place all matters before the Master, or before whatever other officer you have, to see that the breaches, or the notices of objection, were reasonable and properly drawn.

411. That could not well be *ex parte* ; a man would not apply to reduce his own pleadings ?—No, it must be a hearing before some proper officer.

412. Would you have counsel there or not ?—I suppose so, but I am afraid that counsel generally increase the occupation of the Judge and of all other parties.

413. (*Mr. Fairbairn.*) Is it not the duty of the plaintiff to define clearly and distinctly what is the nature of his complaint ?—It is the duty, but not the practice.

414. To show to what extent he is injured by the infringement ?—It is not the practice. The plaintiff simply avers that the defendant has infringed his Patent by doing so and so, which in fact includes the whole description of his Specification.

415. Then is it left to the defendant to show to what extent he has infringed the Patent ?—Then the defendant has to defend himself, and as I tell you, very often the defendant and his counsel and advisers do not know the issue till he gets into Court, and then when the plaintiff's counsel stands up and tells the Court and jury the precise point which he is going to put before them, and directs their attention to it, that is very often the first time that the defendant

and his advisers are informed of the real issue which they have come there to try.

416. (*Vice-Chancellor Wood.*) From the very nature of discovery must there not be an increasing expense with reference to Patent actions in this respect, the greater the multitude of inventions the greater becomes the risk from year to year of their having been anticipated by some anterior invention, does it not ?—I think not. Invention is like a ladder, the preceding rounds of which have brought you up to a certain point, and from this in making further progress you must start, and, practically, those who are generally well informed upon the history and state of the particular manufacture will tell whether it is a new step or not.

417. In some cases are there not very long gaps in the steps of the ladder between the Patent which is relied upon for invalidating the subsequent Patent and the subsequent Patent itself ?—There are all stages.

418. (*Mr. Forster.*) I think you stated that in comparing the new mode of pleading with the old mode of pleading, the old might have the advantage in immediate expense, but rendered new trials more likely ?—Yes.

419. Has the proportion of new trials really diminished since the new mode was introduced, that is to say, the proportion of important cases in which new trials have been demanded ?—I would not venture to speak from memory upon that point very positively, but I think that there were more new trials formerly than in modern times. There have been comparatively very few new trials in modern time.

420. (*Mr. Attorney General.*) You mean on the ground of surprise ?—Yes.

421. (*Mr. Forster.*) In the very costly cases to which you have alluded, of the combing machine, it was tried over and over again, I think ?—It was tried only upon two occasions. The Court was of opinion in the first suit that the Specification was so drawn as to include more than the patentee intended to include, and practically more than he had a right to include, and they suggested that he should take advantage of the statute and disclaim and alter his Specification so as to meet the real facts of the case, which he did, and then proceeded with the amended Specification.

422. The proposition which you have now made that the issue should be narrowed would in that case have prevented the new trial ?—No, it would not have prevented the second trial, in that case, as at the first trial, the plaintiff could not recover because his Specification was held to claim too much.

423. (*Lord Overstone.*) Have I understood you correctly that when parties come before you as an arbitrator the frivolous pleas which appear to give rise to so much improper expense are never pressed ?—I have had a large number of cases referred to me and I have had to settle a very large number of cases, but I am never troubled with a multitude of these previous publications.

424. Is that because those frivolous pleas fall to the ground in the presence of a competent tribunal ?—It is wholly so, I believe.

425. Are we to infer from that evidence that the true remedy for the evils which we have been discussing is the improvement of the tribunal ?—I think it requires improvement very decidedly.

426. And you think that the creation of a more intelligent and competent tribunal would go far to put an end to these difficulties ?—I would not say a more intelligent tribunal, because my own feeling is that you cannot have a more intelligent tribunal than the Judges of the land, but I would endeavour to give to the Judges that quantity of technical knowledge which I may be supposed to possess, and a knowledge of manufactures generally. If we could only assist the Judge by some person external of the experts who come before him, and independent of the case which he had to decide upon, then I think we

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should get very near perfection. I should be very sorry to suggest anything to take it out of the hands of the Judges, because many points of very nice law arise, and only a judicial mind could deal with them.

427. Are we not to understand from your evidence that these frivolous pleas fall to the ground when the parties are called upon to bring them before a tribunal, which from its special and peculiar knowledge they are satisfied will not be deceived by such pleas?—That is so, certainly.

428. Then are we not to infer that if we create a tribunal with such competent knowledge upon that particular subject as that frivolous pleas will have no chance of misleading or puzzling that tribunal, we shall go far to accomplish the object in view?—I think you will.

429. Then do you think that the tribunal as now constituted, however competent it may be upon matters of law, is sufficiently intelligent in those matters which have reference to Patent law for the purpose of preventing the bringing forward of frivolous pleas?—I think that the Court for the trial of Patent causes at the present time is not so clearly informed as it ought to be. The Admiralty Court employs the aid of the Brethren of the Trinity House sitting as assessors with it. In the same way I infer that if you could have some parties as independent of manufacturing, mechanical, and engineering interests as those Brethren are of the questions which are brought before them,—if you could have any one who could sit with the Judge and could read the Specifications and hear the experts define what they found in them,—I think that you would reduce a Patent cause to a very simple issue indeed.

430. Is it your opinion that if a competent person, competent I mean upon the subject of Patent law and Patent processes, was associated with the legal authority, the consciousness that the tribunal was doubly intelligent, partly in law and partly in mechanics, would tend powerfully to check the introduction of these frivolous and costly pleadings?—I think that that would greatly check it.

431. Do you think that that would be a more efficient mode of checking it than by any specific previous legislation defining more correctly and closely the nature of the pleas which should be admitted?—I think so.

432. (*Vice-Chancellor Wood.*) Is it not the jury who determines all the questions of fact?—It is the jury who decides the facts, but the difficulty is to get the subject into facts so that the Judge can feel that after having read the Specifications, and after having heard the witnesses on the one side and the other as to what they contain, he can go to the jury with a full confidence that he is telling them that which they have to decide.

433. You have had a good deal of experience in arbitrations generally?—I have had a good deal of experience.

434. You have attended as a witness before arbitrators?—I have attended before arbitrators and also before Courts of Law.

435. Not only in Patent cases, but I think I have had the pleasure of seeing you in a large number of railway cases?—You have seen me in engineering cases generally.

436. Has your experience led you to this observation, that a great many of the fringes of a case drop off in the arbitrators' room across the table in every description of litigation?—I will not say in every description, because I have been lately engaged in two Patent cases where there have been arbitrators, and I must say that the fringes have increased in quantity and in length.

437. Is it not usually the case that that which is only thrown out to divert and distract the attention of a jury in a public Court, drops off the moment you come to discuss the matter before a single individual across a table?—That is so.

438. (*Chairman.*) In what you say I do not understand you to dispense with the agency of a

jury?—I have not said anything about dispensing with the agency of a jury, but my own feeling is, that in a Patent case if the Judge is capable of deciding the law, as he unquestionably is, and were equally capable of understanding and feeling that he understood the manufacturing question as well as he does the law, I should only be too glad to see him decide the case without the help of a jury at all. A jury more often than otherwise rely unnecessarily upon the Judge, and more often find their verdict by his direction.

439. (*Mr. Fairbairn.*) You are aware that it has been recommended that a commission should be appointed of gentlemen, one a mechanic, another a chemist, and a third a lawyer, in order to judge of these cases when an application is made for a Patent, and that they should decide whether the subject of it is a novelty or is not a novelty?—I am not aware of it in that form. I have heard of a proposition to investigate the question of the novelty of an invention at the outset, but from my own experience I unhesitatingly say that a chemist of the highest character, a mechanic or engineer of the very highest character, and a lawyer of the very highest character that could be found, would be a most incompetent tribunal to decide whether an invention brought before them was new and ought to be patented; there is not that universality of knowledge in any three men whom you may pick out which would enable them to judge whether a Patent ought or ought not to be granted.

440. (*Chairman.*) You are now speaking of an entirely distinct question from that upon which we are at present, namely, the question whether a preliminary inquiry should take place or not, and if so, before what sort of tribunal?—Precisely so.

441. But I understand the matter which we are now considering to be, before what sort of tribunal and with what forms of procedure shall the trial take place when a Patent is disputed subsequently to its being granted?—Yes.

442. (*Mr. Fairbairn.*) If such a commission as I have mentioned were to be appointed, with all this knowledge which you seem to think that the Judges are deficient of, would they not be more competent than the tribunals which now exist, I mean an entirely separate Court?—My own opinion is adverse to separate Courts, I unhesitatingly say that a legal man whom we might expect to lead a Court of that kind is very liable to get into what I, as a mechanic, would call a groove; it may be a good groove or it may be a bad one, and my own feeling is that a Court of that kind would be a most injurious thing, by going either too largely against the public or too largely against the inventor. I myself see no reason to take it out of the present Courts of Law and Equity, where we have the best legal powers to deal with such questions. I want to supplement that power which we have, simply by giving to them an independent assessor, who could tell them technically and correctly what the nature of each document produced was, and further than that, when experts were called before the Court, could tell that Court exactly whether an expert was leaning unfairly towards the side for which he was called, and whether he was putting every question in behalf of that side in the highest possible light, whilst he was depressing or putting into darkness as much of his opponent's case as he possibly could.

443. (*Mr. Waddington.*) These are very high functions which you give to this assessor; in the first place he would assist the Judge in framing the issues to be tried, that is what you propose?—Yes; the Master or some other officer.

444. You propose to have a scientific man, as I understand you, to assist the Judge in ascertaining what are the real points of issue between the parties?—Yes.

445. If that could be done with greater minuteness, it would, in your opinion, save the parties a large amount of costs in the investigation?—I think so.

446. Then you propose that the same person, or a person of the same qualifications, should also assist the Judge on the trial of the issue?—Yes.

447. (*Sir H. Cairns.*) I understood you just now, in answer to a question by Lord Overstone, to express an opinion that if the tribunal was made more competent than it is at present, the difficulties to which you referred a short time ago as to particulars of breaches and notices of objections might be found to limit themselves, and might be dealt with as a question of costs afterwards?—Precisely. Those things would be less required when they came before an arbitrator, because he is supposed to be well acquainted with the subject, and so it would be to some extent with a Court assisted by an assessor. In a very large number of cases which come before me, the parties merely agree that they will refer the case to me for me to adjudicate upon all matters in difference between them, without any pleadings.

448. (*Mr. Attorney General.*) It frequently happens, as you know, in all sorts of actions that a cause is referred after the mere issue of the writ before any pleadings?—Yes. In some cases the cause is referred after the pleadings are joined; in other cases it is referred before any pleadings have taken place.

449. (*Mr. Waddington.*) I understand you to say that a scientific person assisting the Judge as assessor in settling the pleadings would in your opinion be a very great improvement?—I think so; a person thoroughly acquainted with the manufacture would enable the Judge to know what the contents of the plaintiff's Specification were, and he would be able to tell him whether the plaintiff was fairly and properly stating the cause of complaint.

450. And it would enable him to reduce the points in question to a much fewer number than they now usually are?—I think so.

451. Would you in addition to that have a scientific assessor to assist the Judge on the hearing of the cause?—I certainly think that that is more wanted than the other, because the Judge has a multitude of these documents placed before him, and he has a large number of witnesses who come to speak of processes which he cannot have carried on before him, so that it must be done only by words of description; and the Judge, not being acquainted with the nature of the manufacture previously, cannot always grasp and hold the whole of the matter so as to go to the jury with any degree of confidence that he is putting the real facts before them.

452. Then would you have the assessor instruct the Judge upon these matters while the cause is going on, or merely give his opinion before the Judge charges the jury?—My own opinion would be, that as to documentary evidence to be brought before the Court, the assessor ought to make himself acquainted with the contents of all these documents, and with the general matter beforehand, and then, either as the cause progressed or previously to its going to the jury, or from time to time he should give the Judge such information as he wanted in the matter.

453. (*Lord Overstone.*) I understand your view upon principle to be this, that when sitting as arbitrator you find that these objectionable pleas are brought before you to a very slight extent compared with the extent to which they are placed before a Judge and a jury?—That is so.

454. And you infer from that, that if the arbitrator could sit by the side of the Judge, the beneficial results produced in the arbitrator's Court would take place in the Court of Law?—That is my opinion.

455. (*Mr. Waddington.*) Have you considered what sort of an officer this should be?—I am aware of the difficulty which that question involves.

456. Have you considered the character which this person should have, whether he should be a public officer?—I think that he must be a public officer wholly independent of any profession or business.

457. (*Mr. Forster.*) I understand you to say that by the help of this assessor you would enable the Judge to define the facts which were to be brought before the jury?—If you chose to have a jury with them.

458. In your experience do you find that the impression which prevails pretty generally is well founded, namely, that the unsatisfactory nature of the tribunal arises very much from the incompetence of the jury, from the want of previous scientific experience, to comprehend the questions brought before them?—I think that the difficulty is often as great with the Judge as it is with the jury.

459. Therefore you think that if the Judge could be assisted by such an officer as you describe, so as exactly to define the facts before the jury, the average of juries would be competent to decide upon them?—I should say yes, but I should also say that, generally speaking, you would hardly want a jury.

460. (*Chairman.*) As I understand your proposition, the assessor, who is conceived to know most of the scientific bearings of the case, is to instruct the Judge, the Judge, who knows less of them, is to instruct the jury, and the jury, who knows least of them, is finally to decide the matter?—I have stated that I see no necessity for a jury under that state of things; on the contrary, I do not think that a jury could really help the question much.

461. (*Mr. Forster.*) Would you prevent the case being brought before a jury, or do you think that the effect would be that neither party would wish to resort to a jury?—I should imagine that a jury would in most cases be dispensed with; there are so very few facts in Patent cases, that really and truly juries very seldom have anything to decide with regard to facts; it seldom happens that the defence is grounded upon a previous user in which there is a dispute as to facts. I will, however, give you an instance, and one of which I have a very clear recollection; it was a case at Nottingham: there an order was obtained for me to examine a machine of the defendant's. I was shown into a room and examined a machine, and when I asked a question, I found out that they had shown me the wrong machine; they had shown me the machine upon which they were going to found their defence in place of their own machine. I told his Lordship as soon as I entered the Court that that error had taken place, and his Lordship immediately said, "It is a great pity that you did not examine it carefully, and come and tell us exactly what it is if the issue is to rest upon that machine." I then, at the wish of his Lordship, went and examined it, and came back and told him that if that machine existed previous to the plaintiff's Patent, then it was so substantively identical with the Patent that I could not imagine that it could stand. Then the question became wholly one of fact to prove whether that machine in its then state, or substantively in its then state, existed previously to the Patent, and that took the best part of a day trying, because the machine had been kept hidden to a large extent, not absolutely secret, for many persons had worked it, and many persons had portions of the fabric produced by it, and it came wholly to a question of fact for the jury after the Judge had submitted it to them whether that was a *bonâ fide* machine existing previously to the Patent. Now in modern times we have hardly ever had a fact of that kind to go to the jury on pre-user, the pre-user has been nearly always founded upon printed publications. There are very few cases of modern time where absolute pre-user is the defence, independent and separate from previous Specifications and publications.

462. (*Sir H. Cairns.*) You have referred to the analogy of the Trinity Masters in a suggestion which you made with regard to the improvement of the tribunal; have you followed out that analogy quite correctly, there is no jury there?—There is no jury there, at least, I think not.

463. Do you know how many Trinity Masters generally are present?—I do not.

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Esq.

16 Dec. 1862.

1464. But whatever number there are the evidence is given before them and the Judge, and then, I believe, the Judge asks for their opinion upon the facts which have been proved, stating to them what the issues are?—I believe that they generally retire from the Court, and that then the Judge puts it to them.

1465. I do not know whether you have ever been present at a trial in the Admiralty Court?—I have not.

1466. Does the Judge inform them what he considers to be the issues, and ask them to apply the evidence which they have heard to those issues?—I have always understood that he does, but I believe that it is in private.

1467. They are, as it were, in the place of a jury, with knowledge and experience?—Yes.

1468. Have you ever considered how a tribunal would work composed of a Judge and with, say for example, three experts in the place of a jury, directed by the Judge as to the points to which they should apply their mind and their knowledge, and hearing the evidence to a certain extent in the same way as a jury hears it?—I have thought of it again and again, but the difficulty is that the persons whom you would call in as assessors or jurors in that form would be persons who would be most often closely allied, and largely interested in the issues which they had to try.

1469. I did not assume that they were so; I put them upon the same footing as the assessors of whom you have spoken?—Then I cannot imagine that there are a class of men sufficiently separated from and independent of manufacturers, and at the same time suitable for deciding cases of that sort.

1470. What occurs to you to be the greater difficulty in getting men to fill that position beyond the difficulty which there would be to get the assessor or the assessors of whom you have spoken?—The difficulty is that I do not know of such men. I say that you must take your assessors out of the business or profession which they have heretofore followed; whereas if you are to have jurors chosen for a special case, for instance, spinners or spinning machine makers, for the purpose of trying a spinning machine case, or Nottingham lace manufacturers, or machine makers, for trying a lace case, then I should say that the interest of these parties and their position would be such that they ought not to be put in the judgment seat to decide against their competitors in trade.

1471. Apply those observations to the suggestion which you made just now, you may try a lace case with a Judge and a jury and an assessor?—I myself do not think that a jury would be wanted with an assessor.

1472. Then you would try it with the Judge and the assessor?—Yes, and as assessors you ought to have men of high standing, who have been in a profession or in business, and whose abilities and character are such as to cause them to be chosen and taken away from their profession or their business, and then they would be as independent of the one or the other as the Judge is of all the causes which he tries.

1473. If three assessors are to perform the part of a jury, what greater difficulty is there in getting men segregated from active professional occupation for that purpose than for the other purpose?—Because one does not find, generally speaking, that men give up their profession or business to come into Court to act as jurors.

1474. I call them jurors rather to explain the duty which they are to perform; call them, if you please, assessors, if you like the name better. Assume that three persons, whom we will call assessors, with competent mechanical or other manufacturing knowledge, sit along with the Judge, and hear the evidence with the Judge, and that the Judge points out to their attention what he conceives to be the issues raised on the pleadings, and asks them to favour him with their report or statement upon those issues, they would, in that case, be performing the function of a jury?—

They would be performing the function of a jury, and I have no doubt that if they were independent of all interest, direct and indirect, they would be a very good tribunal to decide the case for the Judge, or to find the essential facts for him to found his judgment upon with regard to the issue.

1475. Would not that combine what you stated as the two desiderata which occurred to you, namely, first, the head of the Court, with a competent knowledge of law and a habit of dealing with issues, and a habit of dealing with written documents, and on the other hand persons to weigh and consider the evidence, who would not be misled by experts who were advocates on the one side or the other, and who would understand the terms of art which were used before them?—That would be so; but then you cannot find those individuals, unless you make them officers and make it desirable on their part to give up their profession or business.

1476. So that if they were found and would give up any personal interest, it would meet your view?—Yes; they would in fact become similar to an arbitrator, chosen by reason of his special knowledge in the particular case which he is called upon to decide.

1477. (*Chairman.*) Does not it come to this, that for assessors such as you propose, you must have one of three things, either paid functionaries, or parties interested, or men who are superannuated?—Just so.

1478. Of the three alternatives you prefer that of having paid functionaries?—I think so. The income from the Patent Office is such that a reasonable sum may be taken from that income and given to parties whom you would put into the judgment seat as I suggest.

1479. (*Sir H. Cairns.*) Looking at the amount of legal Patent business of the country, both of the Common Law Courts and of the Court of Chancery, and the proceedings which might take place by *scire facias*, do you consider that there would ever be more than one body of three assessors of that kind required; would there necessarily ever be two cases going on together?—I should say not. I should say that three would be as many as you could possibly require.

1480. (*Mr. Attorney General.*) You are aware, no doubt, that it has been the case for some years past, that if both parties to an action at law desire it, the trial may take place without a jury?—Yes.

1481. Did you ever know the parties in a Patent action avail themselves of that option and dispense with the jury?—Yes, there was one case, and only one, I think; I do not remember more.

1482. In your opinion, supposing the jury to be still retained in any shape, would it be an improvement if, instead of its being competent to the parties if they desire it, to dispense with a jury, a jury were not to be summoned unless the parties expressed a desire for it, as is the practice in the County Courts?—I think that that would be the preferable way of the two.

1483. (*Mr. Fairbairn.*) Do you not think that the operations of such a tribunal would be rather complicated if you had an assessor sitting along with the Judge?—I do not think so myself; I think that the Judge would only ask him for information so far as he wanted it. Mr. Attorney General and his predecessors I believe have been in the habit of calling in the assistance of Mr. Woodcroft of the Commissioners' office in cases which they have been hearing, and where they have required assistance in a manufacturing point of view. I do not think that the Law Officers have ever found any difficulty in having a person to whom they could refer and ask questions from time to time.

1484. But if you could impart all that knowledge which exists in the assessor to the judge himself, it would very much simplify the operation?—Yes, if you could find such a man, but I do not know any man with legal knowledge enough, and manufacturing knowledge enough, combining the powers of a Judge such as we now have, and those of the assessor proposed by me.

485. (*Vice-Chancellor Wood.*) Are there any other points in the procedure which occur to your mind?—There is one matter which I was asked to turn my attention to the last time I was here, namely, with reference to writs of *scire facias*. The question was put to me by, I think, Sir Hugh Cairns, how I would enable parties who feel themselves aggrieved by reason of an invalid grant to get rid of the grant without the ponderous and costly process of a *scire facias* as it exists, at present. I thought of the subject after I had been here, and it appears to me that in writs of *scire facias*, in place of allowing the writ to issue merely upon inquiring as to the parties who are to be prosecutors and requiring them to give a bond for costs, it is highly desirable that the Attorney General should hear the parties, the prosecutors, and their case, in order to judge whether it is reasonable and proper cause of action, before he permits the writ to issue; because now the defendant in the *scire facias*, the patentee, has to come into Court with the same absence of knowledge of what he has to meet as in the other cases of which I have been speaking. The Attorney General, before he gives his consent that the writ shall issue against the Patent, requires that the parties shall be proper parties, and if there has been any litigation or there is any pending litigation, he steps in and says, "You shall not be fighting this patentee both at law, with regard to questions of infringement, and also by a writ of *scire facias* at the same time." What I should like to see, and it would not be very costly, is, that the Attorney General should hear the case of the petitioner who seeks to be the prosecutor and require him to place before him the evidence which he intends to use and relies upon for getting a verdict against the validity of the Patent; the Attorney General would then, if he see cause to let the writ issue, direct the issue to be tried, and this I trust would be a pointed issue such as I have been speaking of with regard to actions at law, so that the patentee to defend his Patent might come with a thorough knowledge of the nature and character of the evidence which is to be brought against him. I think that the Attorney General would be benefited by having an assessor, such as Mr. Woodcroft or any other gentleman, sitting with him to hear the evidence of the petitioner. The Attorney General ought to hear the case in the presence of the patentee, not allowing him to bring rebutting evidence, but hearing the evidence given, so that he might go into Court with a thorough knowledge of what he is going to fight. Up to the present time the defendant in *scire facias*, the patentee, goes into Court without the slightest knowledge of what he has to meet when he gets there, and the consequence has been that up to very few years ago no Patent had lived through a writ of *scire facias*.

486. (*Sir H. Cairns.*) According to the present practice, are not particulars of objections delivered?—Yes, but they are of that general character that you can get nothing at all out of them.

487. (*Mr. Waddington.*) Then you think that that is a dead letter, and is of no use to the defendant?—It has proved so in most instances, because I think that I never heard of a writ of *scire facias* going into Court where it was not complained of, and with good reason, that the defendant had been taken by surprise, and in most cases it has been tried again.

488. (*Sir H. Cairns.*) The defendant in *scire facias* is as well off, however, as the plaintiff in an action for infringement?—Just as well off.

489. (*Mr. Waddington.*) There is an express provision in the statute that no evidence shall be given on any subject of which the defendant has not notice, is there not?—Yes; but the language of the notices is so vague that when you come into a Court of Law you do not know what you have to meet. I remember a case, which was tried some years back, where the question was, whether the notice of objection was large enough to let in certain evidence; it was large enough to let in anything, and therefore it was let in. The notice is given in such large terms that

practically it is no notice at all; that has been the working of it. You are not permitted to give evidence of anything of which you have not given notice, but so large is the notice which you give that it will take in anything which you can possibly bring to bear upon the case.

490. (*Sir H. Cairns.*) Who begins in a writ of *scire facias*?—The patentee, I think, begins; but I know that he gets a final reply.

491. How long has that been the practice?—Only for a very few years.

492. Has any Patent been repealed by *scire facias* since that practice began?—I think that there have been three repeals since, but I cannot speak with any confidence; there have been some repeals since, and I think that the number is three.

493. (*Vice-Chancellor Wood.*) You spoke at the beginning of your evidence of the advantage in Chancery of having facts raised by affidavits; do you think that it would be of any advantage that there should be an affidavit as to belief of the averments if the case took the course which you have suggested of going before the Attorney General?—I have a great dislike to swearing on paper.

494. But you spoke before of the advantage of having the issues arrived at on paper?—Yes, that is getting the issue not proving it. We have for many years gone to the Court of Chancery as plaintiffs in order to ascertain what the defendants were really upon; we have constantly done that, and of modern time the definition by the plaintiff in his bill of the thing complained of, has generally been drawn up with great exactness. I have assisted counsel again and again in preparing these definitions. Then the defendant, if there is an application for an injunction, has to answer by himself and witnesses, and make out as clear a justification as he can on his own part, or an injunction would go against him; thus he is obliged to be very specific. In your Honour's Court he does not put in a bundle of blue books and say, "You will find it there;" but he tells you, "You will find in paper A so much, and in paper B so much, and in paper C so much," with great exactness and particularity, and then we can judge tolerably nearly by reason of the particularities on the one side and the other what really is the issue not only in Chancery but often in the trial at law.

495. So far the result is arrived at on paper, and in a manner satisfactory to your mind?—I grant you that; but what I object to in the Court of Chancery with regard to affidavits is this: For a great many years I have observed that in Patent cases we have constantly had exceedingly well-drawn affidavits pointing to exact and nice facts which met the case exactly in answer to the plaintiff. Of course the Court of Chancery did not have the witnesses before them, and when it got before a Court of Law these witnesses who had made such very nice affidavits either did not appear at all, or if they appeared took all parties by surprise by a positive ignorance of the things which they had sworn to so nicely on paper. For that reason I have the greatest disrespect for affidavits, and ever since I have been a professional man I have refused to make any affidavits but those prepared by myself.

496. (*Sir H. Cairns.*) Recurring to the proceeding by *scire facias*; on a former occasion I understood you to express your opinion that with reference to the granting of Patents in the first instance, you thought that it would be very inconvenient and perhaps impracticable to have a preliminary investigation conducted openly, with opposition heard, before the Patent was granted. Has it occurred to you that, avoiding that which you consider to be inconvenient, namely, a preliminary investigation, you might arrive at the same end by providing, for any one aggrieved by the grant of a Patent, some cheap and summary way of setting it aside, for instance, by taking out a rule to show cause, calling on the patentee to justify the Patent which he has thus obtained?—I do not think that a cheap remedy could

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Esq.

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W. Carmichael,
Esq.
16 Dec. 1862.

be obtained by that course of action, but I do think that if a party feeling himself aggrieved went to the Attorney General and said, "I have such and such evidence to show that that Patent is a bad Patent," and that if it were heard, and there were a clear case to justify the Attorney General in directing an issue to be tried upon the subject, most bad Patents would fall and stop the moment that the Attorney General had stated that an issue should be tried.

497. Then you would have it argued before the Attorney General, I suppose, in the usual way, with counsel?—No, I would only have it argued on the side of the petitioner, that is to say, the party seeking to be the prosecutor; something in the nature of the investigation by a grand jury; and if the Attorney General was satisfied upon the merits then brought before him, that there was a reasonable cause to believe that there was a want of validity in that Patent, he should direct an issue to be tried. I believe that very few men, after such an inquiry and such a direction, would defend their Patents.

498. Would it be an *ex parte* proceeding before the Attorney General?—I think not; I think that it ought to be in the presence of the patentee, but that he should not be permitted to bring rebutting evidence.

499. That is to say, that the Attorney General would try the case in the presence of both sides, the one side being allowed to bring evidence, and the other not?—Yes, because I think that the issue should be tried by a Court of Law, in order to deprive the patentee of his Patent, if he chose to defend it.

500. Assume that the other side had rebutting evidence, which the moment that the case went to a Court of Law he produced?—The rebutting evidence could only be of this sort: supposing that there were some matters of fact of a pre-user, such as you suggested upon a former occasion, that a manufacturer had been working for some years in a particular way, and one fine morning received notice that he was infringing a Patent which had been taken out a short time previously, he would not wish to be a defendant in an action, but would put himself in motion and endeavour to get that Patent repealed; he would then go, in the way that I would venture to suggest, to the Attorney General and ask to be prosecutor in a writ of *scire facias* to repeal that Patent. The Attorney General would then hear what he had to say, and assuming the facts to be such as you suggested upon a former occasion, namely, that the party had himself in his own factory been using the process for some time, he would put that evidence before the Attorney General, and the Attorney General upon hearing it would direct an issue to take place, and then the patentee having heard that, and being aware of what really was the case, would not venture to defend his Patent.

501. Do you think that it would be conducive to the ends of justice that a case should be brought into Court, with the knowledge on the part of every one that the Attorney General had before adjudicated on the matter to a certain extent?—I think so. He would only have been invited to permit the Queen's name to be used in a writ of *scire facias* for repealing the Patent, it would be known that he had such evidence brought before him as justified him in issuing a writ of *scire facias* not as a matter of course, as now is the case, but he would have done it upon clear and reasonable evidence, which required an answer, or otherwise the Patent should fall.

502. (Vice-Chancellor Wood.) It would be something like the Attorney General's fiat in an information on a charity?—Yes.

503. You are aware that in that case he does not look into the evidence, but merely sees that the statements warrant the fiat?—Yes. I want him to go a little further than that. I want him to be satisfied that the evidence is such as to justify and require him in fact to allow the Queen's name to be used.

504. (Mr. Waddington.) In a sort of *ex-officio*

manner?—He acts *ex-officio* now in permitting the writ to issue, but he does not inquire into the facts brought against the Patent. He represents the Queen, in fact, the same as if you went to the Crown and asked for permission to use the Queen's name in repealing any other grant which the Crown had made.

505. The ground of proceeding is, that the Crown has been deceived in making that grant?—That is the technical ground.

506. You propose that before the Attorney General assumes that he should have certain evidence?—Yes, and if he once took evidence on the part of the party seeking to be prosecutor, and had a clear case made out to induce him to direct an issue upon the question, (confining the party to what was then brought forward), I believe that in many cases the allowing the writ to issue would practically decide the question, and that this would sweep away many invalid or worthless Patents.

507. The same inquiry would enable him to confine the issues within reasonable limits?—It would do so.

508. And to send the parties to trial?—Yes, the one to defend his Patent upon that evidence, and the other to bring forward that evidence, and not rake for evidence subsequent to the issue of the writ.

509. (Mr. Attorney General.) What would be the advantage of the presence of the patentee, who, according to your scheme, is not allowed to take any part in the discussion?—The object of the patentee being present would be merely for the purpose of hearing the evidence against his Patent, and the nature of the evidence which would be brought if the case was permitted to go into Court. Having that knowledge, unless it was a very clear case, and he had a good defence, he would never think of defending the Patent, and the probability would be that he would not defend it, and then you would only want a mere warrant or document ordering it to be cancelled. The Attorney General would put the patentee upon certain terms, to appear within a certain time, to defend his Patent after what he had heard, and if he did not come forward and defend it the Patent should be repealed by an order of the Crown, or any other necessary form. You cannot repeal and take off the seals from a grant of the Crown without some form consistent with the nature and dignity of the grant.

510. (Lord Overstone.) Might not there be some danger in a case of that sort of a patentee being worried out of his Patent. You have spoken of a case in which you said that there was a trade on one side against the patentee on the other; would not what you have proposed give the trade great power to fight the patentee?—They have now that power, and the trade very commonly get up a fight against a Patent, but I think that it would give the patentee a far better standing than he has now. At the present moment any person in a trade may go to the Attorney General, and supposing that there are no actions pending, and that there is no special reason against the prosecutor, and he gives a bond to the Attorney General for the costs of the patentee in the event of the patentee succeeding, he will obtain a writ of *scire facias*, and he may rake up the history of the whole manufacture, and bring it into Court, giving merely a quantity of general notices which will include everything that ever was done. Therefore the patentee has to fight the matter now in the dark, whereas I propose that he should fight it in the light.

511. (Vice-Chancellor Wood.) You suggest, I suppose, that the Attorney General should not grant a second writ on the failure of the first without very strong reason?—Certainly not. I should say that it would be one of the best things possible to check further litigation.

512. (Mr. Forster.) Would not the provision of which you speak rather tend to give an unfair advantage to the opposing party in this way, that if he had the opportunity of hearing the whole of the

evidence to be brought against him, before coming to trial, he would have an opportunity of making up his own case?—He has his Patent and his Specification and nothing else; he is limited, he cannot make up a case, he has his document; the prosecutor brings it before the Attorney General and says, "This Patent is bad;" the Crown, through the Attorney General, says, "If the Crown has granted it from mis-information it is but proper that the Crown should repeal it; what is your evidence in order that I may see that you have a substantive reason and sufficient evidence to show that this is a bad grant?"

513. Still the patentee would be in this position, that he would have heard sometime previously all the evidence to be brought against him?—And so he ought; surely a man who is to be deprived of his property ought to know before going into Court the exact things which he has to meet, and to be advised upon it, whether he can wisely go into Court. Anything which contributes to a surprise in trying a case in a Court of Law, I think, is prejudicial to litigation in every shape or form.

514. Is not that upon the supposition that both sides are *bonâ fide* in their proceedings, because otherwise it is surely a very great advantage to any party to have heard all the evidence that is to be brought against him, and to be allowed full time to pick holes in that evidence?—I am aware, and have been for a great many years, of lawyers saying, "You might as well show your brief to the other side." I can only say that my experience has been this: that when witnesses on both sides have been ordered to examine machinery and to report to the parties, and those reports after the investigation have been handed to the other side, and thereby the points of litigation accurately defined, the cost of the litigation has been very small indeed; but when the reports of the inspectors on the one side and the inspectors on the other have been made and have not been exchanged, the litigation has been massive and heavy and costly to a large extent as compared with those cases where an exchange of reports has taken place. It is a very common thing in the Courts of Chancery to order that the plaintiff's engineer shall see the defendant's works, and that the defendant's engineer shall see the plaintiff's works, and in some cases they have consented that the reports of the two parties

should be exchanged, and wherever that has been the order the litigation has been marvellously reduced, because the issue then has been put with exactness upon the facts.

515. But I understood you to say that you would oblige the party who moved for the *scire facias* to give all his evidence, but that you would not oblige the person who would have to reply to it to give evidence before the trial came on?—The party who has his Patent, has nothing but his Patent.

516. But he brings evidence on the trial?—He cannot bring evidence to support the Patent against positive evidence that the thing was done before.

517. (*Vice-Chancellor Wood.*) He may have an advantage as to contradicting the plaintiff's witnesses?—Undoubtedly, and he ought to have it, according to my judgment, if truth be on his side and untruth be on the other side.

518. (*Chairman.*) Have you anything to add to what you have already stated on the subject of the best tribunal to try actions and suits instituted by patentees?—I would only add that if assessors such as I have proposed should be appointed, they should have power to hear cases where the parties might be willing to abide by their decision without going into a Court of Law or Equity. In such cases the assessors should have the power when necessary to state a case for the opinion of any one of the Courts of Law or Equity.

This mode of trying a case would be very advantageous and cheap, particularly if the real issue between the parties be simply whether the defendant is or is not infringing the plaintiff's Patent.

It would also in some cases be very desirable that in place of engineers or others being appointed on both sides to visit and examine the plaintiff's and defendant's factories, that one or more of the assessors should attend and report to the Court, if the question be before a Court, or to aid such assessor or assessors in deciding the case if it had been referred to the assessors by the parties or by the Court.

I do not think that I have anything farther to add; any questions which your Lordship or any other member of the Commission may wish to put I shall be very happy to answer.

The witness withdrew.

Adjourned to to-morrow at half-past four o'clock.

Wednesday, 17th December 1862.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR W. ATHERTON, Q.C., M.P.

HORATIO WADDINGTON, Esq.
W. E. FORSTER, Esq., M.P.
W. FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

LEONARD EDMUNDS, Esq., examined.

519. (*Mr. Attorney General.*) You hold an office in connexion with the Commissioners of Patents?—I hold the office of Clerk of the Patents, an office under the Crown, appointed by the Sign Manual. I have held the office since 1833.

520. (*Chairman.*) Will you state what the duties of that office are?—I am prepared to go into the detail of the whole proceedings in the office in passing Patents. I have some written notes which, with permission, I will read.

521. We shall be obliged to you if you will make your statement in any manner which you prefer?

Acts.—The earliest general Act known relating to Patents for Inventions is the Act of the 21st of James

the 1st (1623), the "Act concerning monopolies;" grants by Letters Patent of exclusive privileges to carry on certain manufactures, and to use new inventions had, however, been made from time to time, and long previously to the Act of James the 1st.

No general Act relating to or regulating grants of Patents for inventions appears to have been passed from the date of the Act of monopolies (James the 1st) until the several Acts of 5th and 6th William the 4th (1835), 2nd and 3rd Victoria (1839), and 7th and 8th Victoria (1844). These three Acts are for the allowance and regulation of disclaimers on Specifications; for the prolongation of the term of a Patent by the Judicial Committee of the Privy Council, and for the

W. Carpmacl,
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16 Dec. 1862.

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17 Dec. 1862.

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Esq.

17 Dec. 1862.

allowance and regulation of the costs of actions on Patents.

Private Acts appear, however, to have passed from time to time previous to the Act of 1835, for the prolongation or confirmation of Patents.

The Act of 1852 (the 15th and 16th Victoria, chapter 83) was passed in July 1852, and came into operation on the 1st of October following.

Lord Chancellor St. Leonards, Sir John Romilly, Master of the Rolls, Sir Frederic Thesiger, Attorney General, and Sir FitzRoy Kelly, Solicitor General, were the first four acting Commissioners of Patents, and they accordingly brought the Act into operation. The Law Officers of Ireland and Scotland are *ex officio* Commissioners under the Act, but no one of these officers has ever acted as Commissioner.

Lord St. Leonards, under the 28th section of the Act, directed the Specifications (formerly enrolled in Chancery) to be filed in the Great Seal Patent Office.

Under the provisions of the Act three separate offices for the passing of Patents might have been either continued in operation or newly constituted, namely, the Great Seal Patent Office (an old office), the office of the Commissioners (a new office), and the office of the Attorney General for making the warrants (also an old office). The Commissioners, however, upon consideration, decided that one office only should be constituted for the whole business of passing the Patents, and accordingly they ordered the office of the Commissioners to be combined with the Great Seal Patent Office, and the warrant of the Law Officers to be made in the combined office. They appointed the Clerk of the Patents, for the time being, to be the Clerk of the Commissioners, and thus the whole duties of the office were imposed on the Clerk of the Patents. They also, with the consent of the Treasury, under the Act, appointed a staff of clerks, and an officer designated the Superintendent of Specifications for the printing of Specifications and other works. Prints of Specifications, and the accompanying drawings, duly certified, are under the Act received in evidence of the originals in all courts. These drawings are, in almost every case, exceedingly minute and elaborate, and the office of Superintendent of Specifications can only be filled by a competent mechanical engineer and draughtsman.

Grant of Patents.—Patents for Inventions are now granted under the Act of 1852, and the Acts of 16th of Victoria, and the 16th and 17th of Victoria to amend the same. I think it would be useful to print the several papers I propose to put in in the Appendix. These several Acts of Parliament, under which Patents are now granted, might be usefully reprinted in the Appendix.

522. (*Mr. Attorney General.*) Do they begin with the Act of 1835 or with the Act of James?—With the Act of James.

523. (*Chairman.*) If you will recite the Acts to which you refer, the Commissioners will consider whether it is necessary to reprint them?—They are the several Acts already mentioned.

Previously to the Act of 1852 the Patent was granted for England only, passing through six different offices distant from each other, and lying between Whitehall and Chancery Lane. The English Patentee, desiring to extend his Patent to Scotland and Ireland, obtained a separate Patent in each country, the instrument passing through several offices in each country, thereby trebling the costs in fees and stamp duties, and the charges of the three several agents.

Cost of Patents.—The cost of the three Patents previous to 1852, in fees and stamp duties, amounted to 350*l.* or thereabouts, the whole sum being paid at once on the passing of the instruments.

The Patent, under the Act of 1852, extends to the United Kingdom; it is passed in one office, and the cost in fee stamp duties and revenue stamp duties (the payments extending over seven years) amounts in

the whole to 175*l.*, as contrasted with the old charge of 350*l.* paid at once on the passing of the three Patents; 25*l.* is paid in five separate payments of 5*l.* each on the passing of the Patents, and the applicant may make these five payments at intervals during the first six months. 50*l.* is paid at the end of the third year, and 100*l.* at the end of the seventh year. The Patent is granted for 14 years, and becomes void at the end of the third or seventh year, in default of either the second or the third payment. There being but one Patent for the United Kingdom, and one office, the charges of the Patent agent do not now amount to much more than one third of the agency charges previous to 1852.

Rules and Orders.—Various rules and orders of the Lord Chancellor and the Commissioners of Patents have been issued from time to time under the provisions of the Act of 1852. This is a print of the rules and orders in force at this time (*producing the same. Vide Appendix A.*).

Course of proceeding.—The course of proceeding on application for the Patent, is as follows:—The petition for the Patent, with the declaration and Provisional Specification attached thereto, is left by the applicant or agent in the Patent office; the same is immediately marked with the date of leaving and consecutive number, sealed with the office seal, recorded, and a certificate of record is given to the applicant. The three papers are referred to the Law Officer, (the Attorney, and Solicitor General, alternately,) for allowance of provisional protection. A Complete Specification may be left with the Petition and Declaration, and the invention is thereby protected without reference to the Law Officer under the Act. The Complete Specification is however referred to the Law Officer, on application for his warrant for the Patent. The number of Complete Specifications average 50 in the year; they were 51 in 1853, and 48 in 1861.

The duty of the Law Officer is to read the Provisional Specification with the title of the invention, and to ascertain whether the invention claimed is properly described therein, also to ascertain that a single invention only is claimed. Should the Law Officer find either Provisional Specification or title, or both, insufficient, he directs the Applicant to attend before him and to amend; 360 in the year (12 per cent., or thereabouts) require amendment at this time. In the first commencement of the Act a much larger proportionate number required amendment.

524. (*Vice-Chancellor Wood.*) Are some of those which require amendment, Patents which have not passed through a Patent agent?—Yes, they are principally those which the inventor himself passes. Those which are generally passed by experienced Patent agents require little or no amendment.

525. (*Mr. Forster.*) Do you know the proportion which do not go through Patent agents?—About 10 per cent.

The Law Officer receives a fee of two guineas on each reference. The fees of the Law Officer on reference for allowance of provisional protection, on the warrant for the Patent, on the hearing of oppositions to the Patent, and on allowance of Disclaimers are regulated from time to time by the Lord Chancellor and the Master of the Rolls under the Act of 1852. (*Appendix A.*)

The papers are returned by the Law Officer to the Patent Office, with his certificate of allowance of provisional protection endorsed thereon, the same is recorded and the certificate that provisional protection has been allowed is given to the applicant.

Provisional protection is thereupon advertised in the Gazette and also in the Journal of the Patent Office.

Notice to proceed for the Patent is given by the applicant, the same is recorded, and a certificate of record of notice is given to the applicant.

Notice to proceed is thereupon advertised in the Gazette and in the Journal of the Patent Office.

The opposition to the Patent before the Law Officer is at this stage, that is, after notice to proceed is advertised in the Gazette.

The notice of objection, stating the ground of objection, is left in the office within 21 days of advertisement in the Gazette of notice to proceed, and a certificate of record of such notice is given to the applicant.

The notice of objection is recorded in the office and forthwith referred to the Law Officer with the original petition, declaration, and Provisional Specification.

The Law Officer hears the case. Should he decide against the Patent, the proceeding drops; there is no appeal in such case. There are not more than 30 to 35 hearings on oppositions before the Law Officer in the year. There is a larger number of oppositions entered, but the actual hearings do not exceed from 30 to 35. There were 119 hearings in 1853 on 3,045 applications; 61 hearings in 1854, on 2,764 applications; and only 28 hearings in 1861 on 3,276 applications. Therefore, the number of applications remaining nearly the same, the number of hearings has fallen from 119, at the commencement of the Act, to 28.

526. (*Mr. Waddington.*) Do you mean by "hearings" when both parties are heard?—When both parties are heard. The Law Officer receives certain fees on hearings of opposition according to the scale settled by the Lord Chancellor and the Master of the Rolls. The rules and orders set out these fees (*see Appendix A.*).

The Law Officer, deciding in favour of the applicant and against the objections, issues his fiat for the warrant, returning the papers to the Patent Office.

In many cases of opposition the hearings before the Law Officer are adjourned from time to time for further inquiry and evidence. The delay caused by these adjournments in many cases either runs out the six months of protection, or runs it so close that an application to the Lord Chancellor for extension of time for sealing the Patent becomes necessary. The Lord Chancellor is empowered under the Act to extend the time. The application for extension of time is by petition to the Lord Chancellor, stating that the delay was caused by adjourned hearings on opposition and appending the certificate of the Law Officer to that effect. The Lord Chancellor is empowered to extend the time for sealing, by the Act of 1852, and also by the Act of 16th and 17th Victoria (1853).

The warrant for the Patent is prepared in the office and sent to the Law Officer for his signature; having received the signature of the Law Officer it is sealed and recorded. The Law Officer receives a fee of one guinea on the warrant.

The opponent failing before the Law Officer may also oppose the sealing of the Patent at this stage of the proceedings. Notice of objection, stating the ground of objection, is left in the office, and is recorded there.

The hearing before the Lord Chancellor is in open court, and by counsel, a clerk from the Patent Office attending. Should the opposition prevail, the Patent falls. The Lord Chancellor on these hearings very often refers the case back to the Law Officer for his opinion; the Lord Chancellor deciding in favour of the applicant orders the Patent to be sealed forthwith.

This proceeding in opposition at the Great Seal is usually by the opponent failing in his opposition before the Law Officer, and by way of appeal, but any other person not opposing before the Law Officer may appear and oppose at this stage. The hearings on opposition to sealing before the Lord Chancellor range from one to five in the year, and no more.

If necessary by reason of further delay in the opposition at the Great Seal, the Lord Chancellor may, on petition, further extend the time for the sealing and filing of the Specification.

The Patent is prepared in the office, sealed with the Great Seal, and dated as of the date of record of the first application for provisional protection. The warrant of the Law Officer is countersigned by the Lord Chancellor, on sealing is returned to the office with the Patent, filed there, and thus becomes the record of the Patent. The Patent being recorded in the books of the office is delivered to the Patentee.

The Specification, in pursuance of Letters Patent, is left in the office by the Patentee, is duly filed and recorded there; and the same, together with the Provisional Specification thereon, is printed and published within 21 days of the date of filing.

The Patent, or a duplicate thereof is stamped with the 50*l.* stamp required by the Act before the expiration of the third year from the date of the Patent, is produced at the office so stamped, is recorded there, and certificate of stamping endorsed thereon. The like on payment of the additional stamp duty of 100*l.* before the expiration of the seventh year from the date of the Patent.

The Provisional Specification is not open to the public until after the Specification in pursuance of the Patent is recorded.

The Patents becoming void by reason of nonpayment are regularly advertised from time to time in the Gazette, and in the Journal.

Every paper and record, Patent and Specification, is marked with the date and consecutive number of the original application for the Patent.

The Act of 1852 (section 35) directs a registry to be made in the Patent Office of all deeds relating to Patents. These deeds are for assignments, licences, partnerships, and other matters relating to Patents. They are generally of great length, have become very numerous, and are increasing yearly in number; 577 were registered in the year 1861.

The deed on being left for registry is recorded under the name, title of invention, date, and consecutive number of the Patent to which it may relate; a full and exact copy thereof is made in the books of the office, and the deed is returned with a certificate of registry endorsed thereon.

The fee paid on registering is 5*s.* only, a sum quite insufficient to cover the cost of copying the deed into the books of the office. This fee ought to be increased to 1*l.* The registry is open at all times to the inspection of the public on payment of a stamp fee of 1*s.*, and a copy of any deed, or an extract from any deed, may be obtained on payment at the rate of 2*d.* for every 90 words.

Entries in the registry may be varied or expunged by order of the Master of the Rolls or a Common Law Judge under the Act of 1852, section 38. Many orders varying or cancelling entries have been made from time to time, and duly recorded. This is a copy of some orders of the Master of the Rolls and Mr. Justice Blackburn, which I may put in (*delivering in the same. Vide Appendix B.*).

Applications for disclaimers of parts of Specifications or memoranda of alterations therein, under the Acts of 5th and 6th William the 4th, 2nd and 3rd Victoria, 7th and 8th Victoria, and the Act of 1852 are made by the petition, either of the patentee or assignee of the patentee, addressed to the Commissioners of Patents. The petition sets out the parts of the Specification desired to be disclaimed, as also the words desired to be substituted as a memorandum of alteration. The petition is recorded in the Patent Office, and is, together with the Disclaimer, referred to the Law Officer.

527. (*Mr. Waddington.*) The petition is not addressed to the Lord Chancellor?—No, to the Commissioners of Patents; it is referred in the office to the Law Officer. The Law Officer hears the case, and if he thinks fit to allow the Disclaimer, or memorandum of alteration, he returns the petition to the Patent Office, with his fiat of allowance endorsed thereon. The Disclaimer, or memorandum of alteration, allowed is recorded in the office, filed with the

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Esq.*

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Esq.

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Specification to which it relates, and is forthwith printed and published.

The petition for Disclaimer is referred to the Law Officer, to whom the application for the Patent to which it relates may have been originally referred.

This table shows the number of applications for Patents in each year, from the 1st of October 1852 to the end of 1861, with the several proceedings thereon to the last stage, namely the payment of the additional 100*l.* at the end of the seventh year. (*The witness delivered in the same. Vide Appendix C.*)

Number of Patents under old Law.—The number of Patents for Inventions passed in England under the old law was in 1833, 180, and in 1851, 455. The number had increased gradually year by year, and supposing the old law to be still in force they would doubtless by this time have reached 900 in the year.

Number under new Law.—The number of applications for Provisional Protection under the Act of 1852 commenced in 1853 at 3,045; the number of Patents passed thereon was 2,185; therefore, 860 applications failed, or were dropped in the six months between provisional protection and the Patent. There were 1,211 applications in the three months of 1852, from the 1st of October to the 31st of December. This large number in excess is to be explained by the applications having been held back between the passing and operation of the Act.

No increase since 1852.—There appears to have been no material increase or decrease in the numbers between 1853 and 1859; the numbers within these years remaining at about 3,000, a little over or under. The numbers began to increase in 1861, being in that year 3,276; the largest number in any previous year being 3,200 in 1857. The number in the current year (1862) will amount to 3,500. This increase is, however, to be ascribed to the number of new inventions, for the most part foreign, exhibited at the International Exhibition, the inventors seeking the protection of the English Patent. The applications for Patents during the three months of March, April, and May 1861 were 848, the applications during the corresponding three months of 1862 were 1,101, an increase on the three months of 253. Immediately, however, on the opening of the Exhibition in May the numbers fell to the average of the preceding year, and so continued to the end of the year.

The relative number of applications and Patents passed thereon in 1861 show a decreased number of Patents on the applications as compared to the numbers in 1853. The applications in 1853 were 3,045, and the Patents thereon were 2,185, 860 failing. The applications in 1862 were 3,276, and the Patents thereon were 2,047, 1,129 failing. Therefore the number of applications failing the Patent are at this time over one third.

Additional Payments and Number becoming void.—The Patent is granted for 14 years, and the patentee desiring to keep his Patent in force pays, as before stated, an additional 50*l.* at the end of the third year, and 100*l.* at the end of the seventh year. The beneficial results of these additional payments in the avoidance of a very large number of futile and useless Patents is obvious. Over two-thirds of the Patents sealed become void by reason of nonpayment of the 50*l.* at the end of the third year, and nine-tenths become void, failing the 100*l.* at the end of the seventh year. In 1853 2,185 Patents were sealed, of this number 621 paid the additional 50*l.*, and 205 the additional 100*l.*. In 1854 1,876 Patents were sealed, of this number 513 paid the additional 50*l.*, and 140 the additional 100*l.*. In 1858 1,954 Patents were sealed, and the 50*l.* was paid on 539 of this number. The proportionate number of Patents becoming void in each year by reason of nonpayment is therefore increasing, but apparently in a greater degree in the second payment than in the first.

In truth the number of Patents really in force under the new law of 1852 is much under the number that was in force under the old law, notwithstanding the

great apparent increase of 2,000 in the year as compared to 450. This great increase commencing at once on the Act of 1852 is to be ascribed to the large reduction in the cost of Patents.

Patents in France.—In France, the charge in fees being an annual payment of 4*l.* only, the number of Patents granted is from 5,000 to 6,000 annually. The French Patent is granted for 15 years, and fails at the end of any year within the term on nonpayment of the annual tax.

In America.—In America, the charge being 30 dollars in the whole, the number of Patents granted in 1860 was 4,819. In 1861 the number of applications for Patents was 4,643; on this number, under the operation of preliminary examination, 1,260 were refused, and 3,383 were granted. It appears, therefore, that a larger proportionate number of applications fail reaching the Patent under the voluntary system in England than in America under the compulsory system of preliminary examination, the compulsory system in America being effected at a great cost.

As to Reduction of Fees.—I am of opinion that the scale of fees on the passing of a Patent ought not at present to be reduced. I think the Patent is quite cheap enough. Were the fees reduced to one half of the present scale, as is proposed by some, the result would be a great increase in the number of useless and futile Patents. Under the present scale of fees many Patents are taken obviously for advertising purposes, and this class alone would undoubtedly be largely increased were a reduction of fees effected.

The large number of Patents passed annually in France and in America is no doubt to be ascribed to the low rate of fees paid thereon.

528. Is the fee in America an annual fee?—In America it is 30 dollars at once.

529. And there is no further fee afterwards?—There is no further fee afterwards. Up to within the last two years they have had in America a differential rate; an Englishman paid 300 dollars, other foreigners paid, I think, 150 dollars, and an American paid 80 dollars; but within the last two years the charge has been the same for all, Americans or foreigners.

Other sufficient reasons may be assigned against a reduction in the scale of fees, at this time at least. The annual surplus, estimated to range from 30,000*l.* to 35,000*l.* will for several future years be absorbed in the cost of the proposed new buildings, namely, the Patent Office, Library, and Museum. The large extension of the Museum and Library necessarily following on the completion of the building will involve a much larger annual expenditure than the sum expended at this time on these two heads. A building fund will also be required for the extension of the building of the Museum, from time to time.

It is also by no means certain that the present flourishing condition of the Patent Office fund should hold good in future years. A continental war would undoubtedly largely decrease the number of imported inventions. In 1861 the number of applications was 3,276, of which 884 were imported inventions, and 2,392 were English inventions. A temporary scarcity of money in England would for the time effect a considerable reduction of numbers, and any material alteration in the law of Patents might have the same effect. The French-Italian war produced a very sensible effect, for the time it lasted, in reducing the number of French inventions imported into England. The last money scarcity had the like effect in reducing the number of applications for English Patents for the time.

530. (*Mr. Forster.*) In 1857?—In 1857.

A reduction of the second and third payments of 50*l.* and 100*l.* to 25*l.* and 50*l.*, as is proposed, would probably destroy the surplus altogether. And if a reduction in addition of 5*l.* were made in the first payment of 25*l.* not only would the surplus cease to exist, but the fund would probably become insufficient

to pay the expenses of the office. The total loss to the fund on these three proposed reductions would, at the present rate of business, amount to 37,000*l.* per annum.

531. (*Mr. Waddington.*) That, is, I suppose, if no greater number of persons paid; but if the fee, after three years, for instance, were reduced to 25*l.*, would not more persons pay?—Probably it would be so.

532. And the same with the 100*l.* fee if it were reduced to 50*l.*?—Probably it would have that effect.

533. (*Chairman.*) As I understand you, you are only stating the actual loss which would be incurred, and not taking into consideration any compensating advantage which would be gained by a greater number of persons paying?—Yes. I am not going into speculative matters. If a larger number should pay 25*l.* than now pay 50*l.*, it would in my mind afford a strong argument against reduction.

534. (*Mr. Waddington.*) That would be the object of it, I suppose, if it were reduced?—The object, no doubt, was to reduce the numbers, and to get rid of useless Patents, and it has answered that purpose effectually.

Mode of Paying Fees, &c.—The whole of the fees paid on the passing of Patents are taken in stamps, as also the receipts on the sale of printed Specifications, Indexes, Abridgments, and other works. In this manner the revenue of the office is passed to the consolidated fund, and the sum required for the expenditure of the Office (fees of Law Officers, incidental expenses, salaries, and compensations) is voted annually by Parliament upon an estimate prepared in the Patent Office and submitted to the Treasury.

The money required for the incidental expenses of the Patent Office, Library, and Museum is "imprest" from time to time to the Clerk of the Patents. He passes his accounts with the Treasury and the Commissioners of Audit.

The fees of the Law Officers and the salaries of the officers and clerks are paid quarterly by the Treasury through the Paymaster-General, upon the certificate of the Clerk of the Patents. The printers' and lithographers' accounts are paid by Her Majesty's Comptroller of Stationery, also upon the certificate of the Clerk of the Patents.

The Comptroller of Stationery, also upon requisition and certificate of the Clerk of the Patents, purchases the books required for the library, supplies the stationery used in the office, and the paper required by the printer and lithographer.

Repairs are made and furniture is supplied by Her Majesty's Board of Works on requisition of the Clerk of the Patents.

An annual report is laid before Parliament, according to the Act, with a balance sheet showing the revenue of the office in stamp duties, and charging against the office in detail every item of expenditure however incurred and wherever paid. These are the returns from 1853 to the present time (*producing the same*). The balance sheet shows a considerable annual surplus in favour of the office, and it is proposed to expend such surplus from time to time in the construction of a new Patent Office, Library, and Museum, and in the future maintenance and extension of the library and museum.

A stamp duty fee of 5*l.* is paid on the Specification; the cost of lithographing each sheet of drawings accompanying the Specification is 5*l.*; the cost of the letter press averages 1*l.* And abuse has arisen in some cases in attaching an immense number of sheets of drawings to the Specifications, useless and unnecessary. In one case (1862-751) 104 sheets of drawings were filed, costing the office in lithographic drawings 364*l.*, and in printing and paper 58*l.*, together 423*l.* These are the drawings (*producing the same*). Here are two other sets of drawings, but not to the same extent; they are the drawings attached to two Specifications for flying machines (*producing the same*). I have taken the largest case,

but there are several others of nearly half the size and cost. I would propose to remedy this abuse by levying an additional 5*l.* stamp on every sheet of drawings beyond the second sheet, thereby throwing the cost of lithographing these superfluous drawings on the patentee. Under the contract with the lithographer each sheet costs 5*l.*

535. (*Mr. Fairbairn.*) The drawings are given in with the Specification?—Yes.

536. Who is at the expense of publishing them in this form?—The Patent Office.

537. (*Mr. Forster.*) You do not think that to carry out your proposition of levying an additional charge for an increased number of drawings would be disadvantageous to good Patents?—No, I propose to commence the extra charge after the second sheet.

538. (*Chairman.*) In order to have this case fairly before us, what would a person who took out the Patent here referred to, and who had these drawings printed at the cost of the Patent Office, have paid to the Patent Office up to that stage?—25*l.*

539. With that 25*l.* so paid by him, his invention, if it be an invention, is printed at the expense of 420*l.*?—Yes, that is the case.

540. Is he supplied with an indefinite number of copies of that Specification or does he pay for them?—He pays for them; the Act permits the Commissioners of Patents to present 25 copies to each patentee, but as the charge for prints is taken at the cost price of printing and paper (averaging 6*d.* each print), the 25 copies have not been given in any case.

541. Am I to understand you that he has a right to claim 25 copies?—No, he has not the right.

542. It is optional with the authorities of the office to grant it?—It is optional.

543. (*Mr. Forster.*) How many copies do you strike off?—250.

544. (*Vice-Chancellor Wood.*) What do you charge for such a Specification as this (1862-751), the drawings of which you have produced?—The price [2*l.* 13*s.*] is marked upon the blue cover; not one copy has been sold.

545. For 2*l.* 13*s.* the patentee could get all he wanted?—Yes, that is the price of a print of the Specification in question.

546. (*Chairman.*) What is the object to the inventor of getting a publication of this sort made at the public expense; if after all he only receives his own copy, what does he gain by it?—I do not know that he gains anything.

547. He gains nothing except the pleasure which it gives him of seeing himself in print?—Probably.

548. (*Mr. Forster.*) I suppose it is not the particular object of the inventor to have it printed, but it is the rule of the office to print every Specification?—Yes, the Act directs all Specifications to be printed.

549. (*Mr. Attorney General.*) Might it not be that a person applying for a Patent might honestly, whether sensibly or not, consider that a vast variety of drawings was necessary for the purpose of fully explaining to the world what he had invented?—No doubt he might think so.

550. Supposing him to be an honest man, and to have no indirect view, he might multiply his drawings for that purpose?—Yes.

551. (*Mr. Forster.*) But do not you think that your suggestion of making him pay after the second drawing might be a heavy tax upon a poor inventor who had a really good invention?—There are very few cases of drawings attached to any Specification extending beyond the second sheet. In the elder Brunel's invention of the block machinery the whole of the drawings attached to his Specification are contained in one sheet of the size of half a sheet of parchment.

552. (*Mr. Fairbairn.*) Is not this (1862-751) an exception to the general rule?—Yes, it is exceptional, but there are others of one-third of this number.

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553. (*Vice-Chancellor Wood.*) A great many of 30 or 40 sheets?—Several.

554. (*Lord Overstone.*) Do you think that there are a great many cases in which the printing of these plans is carried to a real abuse?—Not a very great many.

555-7. (*Mr. Waddington.*) The object, I suppose, is that the public may have it if they want it at a reasonable price?—Yes.

558. (*Mr. Fairbairn.*) I apprehend that a man taking out such an immense number of Patents has an object in view in doing it, namely, to embrace as many articles as he possibly can in one Patent?—He cannot do that; under the Act of 1852 he can only take a Patent for one invention.

559. Are all these drawings for one invention?—They are.

560. (*Mr. Attorney General.*) It must have been considered to be the subject matter of only one invention before the Law Officer would have passed it according to practice?—Yes, it is the duty of the Law Officer to ascertain that only one invention is claimed.

561. (*Mr. Fairbairn.*) You cannot embody two or three inventions in one Patent?—No.

562. (*Chairman.*) But you give a patentee the unlimited licence of printing what is in effect an unlimited number of illustrations of his invention, is there no check on that?—No check whatever; we are bound to take whatever he chooses to append to his Specification.

563. (*Mr. Fairbairn.*) There are about 250 copies printed?—Yes.

564. Are those copies printed for the patentee and therefore for the public if they choose to purchase them?—Yes, we dispose of about 150 in gifts to the public free libraries of this and other countries, the rest are reserved for sale, reprinting in the case of a particular Specification being sold out.

565. Do you send these prints to the various institutions?—I will state as to that afterwards.

566. (*Mr. Forster.*) Do you think it best to adhere to that number of 250?—We began by printing 500, but we found that number much exceeded the sale; it is much cheaper to reprint when required.

567. Do not you think that you might, with advantage, have the discretion of reducing the number in such a case as this?—In the cost of printing, whether 100 or 250 be struck off, the extra paper makes the difference; 150 are disposed of in the public libraries all over the world, so that 100 only are reserved for sale.

568. (*Mr. Waddington.*) Does not this printing take place by virtue of some Act of Parliament?—It is under the Act of 1852, and the Act of 1853 to amend that Act.

569. Do you recollect what is the section in the Act of 1852 which relates to that matter?—Section 30.

570. There is no option in the Commissioners?—There is no option.

571. (*Vice-Chancellor Wood.*) How is it with regard to the fees, are the Commissioners empowered to raise the fees?—No, the fees are fixed by the Act of Parliament.

572. I do not mean for obtaining a Patent, but for these particular purposes?—The scale of fees cannot be altered except by Act of Parliament; it might be convenient to charge the 5*l.* upon the drawings, rather than the Specification.

573. (*Mr. Waddington.*) The patentee gains this by the printing, that a copy certified by the Queen's Printer is evidence?—The Act 16th and 17th of Victoria, chapter 115, section 4, directs certified printed copies of Specifications filed at the Commissioners' office to be received in evidence. The size of each sheet of drawings is limited by order not to exceed the size of one skin of parchment.

574. (*Mr. Fairbairn.*) You have to reduce them, I suppose?—No; the copies of the drawings are made by tracing.

575. (*Mr. Attorney General.*) Do you think that a patentee, such as this gentleman seems to have been, not able to compress his ideas, might not at a reasonable expense avail himself of the assistance of a draughtsman who would put his ideas into a much smaller compass?—No doubt; a competent draughtsman or a mechanical engineer would have set out all necessary drawings within two or three sheets.

576. There are mechanical draughtsmen who would do it?—Yes.

Patents granted in Foreign Countries and Colonies of England.

Patents for Inventions are granted in the following Foreign Countries and English Colonies and Possessions:

Austria.
Baden.
Bavaria.
Belgium.
Brazil.
Buenos Ayres.
Chili.
Cuba.
Denmark.
Dutch East Indies.
Dutch West Indies.
France.
Germany (Petty States of).
Great Britain and Ireland.
Greece.
Hanover.
Italy.
Mexico.
Netherlands.
New Granada.
Paraguay.
Peru.
Phillippine Islands.
Poland.
Porto Rico.
Portugal.
Prussia.
Roman States.
Russia.
Saxony.
Spain.
Sweden and Norway.
United States of America.
Wurtemberg.
Barbadoes.
British Guiana.
Canada.
Cape of Good Hope.
Ceylon.
India.
Jamaica.
Mauritius.
New Brunswick.
Newfoundland.
New South Wales.
Nova Scotia.
Prince Edward Island.
Saint Lucia.
South Australia.
Trinidad.
Victoria (Australia).

The Act of 1852 (section 18) recognizes the extension of the English Patent to the colonies of England. The subject of extension was considered at various meetings of the Commissioners of Patents from 1852 to 1855; it was decided, considering that a great proportion of the most important colonies had already Patent laws of their own, and that other colonies were proceeding to enact Patent laws, taking the English Act of 1852 as their model, that the English Patent should in no case be extended to the

colonies. In consequence, no English Patent has been extended to any colony under the Act of 1852.

In January 1853, at the instance of Lord Chancellor St. Leonards, a circular despatch was issued by the Secretary of State to the several officers administering the Government of the several English colonies, requiring answers to the following questions:—"What is the present state of the law of the colony under your government as to the powers which exist for the grant of Patents within the colony by the local authorities, and also as to the mode of proving in the colonial courts Patents granted in this country?—Regard being had to the recent 'Patent Act,' 15th and 16th Victoria, chapter 83, and also to the Act 'To amend the Law of Evidence,' 14th and 15th Victoria, chapter 99. Further—What is your opinion, and that of your Executive Council, as to the expediency of the grant of Patents in this country extending to the colony under your government; and what facilities would it be necessary for the Legislature to give (supposing no sufficient facilities at present to exist) for rendering such a Patent available by proof in the colonial courts, in case of infringement of the inventor's rights?"—Abstracts of the several answers of these officers have been made, printed and published with a table, showing in one view the colonies that possess local Patent laws, those having no local laws, and the opinions of the government of each colony for or against the extension of the English Patent.

On the 11th of July 1856 the Secretary of State issued a second circular despatch calling for information as to the form of application to be made by persons desirous of obtaining Patent rights in the colonies, and the expenses attending the Patent. The answers to this despatch have also been abstracted, printed, and published. These printed Abstracts are sold in the office.

Three-fourths of the Patents, Inventions of Englishmen.—Three-fourths of the applications for Patents, or thereabouts, are for the inventions of Englishmen; the remaining one-fourth are for the inventions of foreigners, for the most part Frenchmen and Americans. The country in which inventions are of the highest value will draw inventions to it from all others, and so long as any one country protects inventions by Patent, so long must all countries protect. Were England to abolish protection of inventions, inventors would carry their inventions to other countries. Switzerland does not protect, and consequently the Swiss take their inventions to other countries. John George Bodmer, a native of Switzerland, has made numerous inventions, patented by him in this country, many of them of the highest value. The subjects of his inventions are in grates, stoves, and furnaces applicable to steam-engines; boilers; spinning machinery, and preparations of the raw material; apparatus for cutting, drilling, planing, turning, and rolling metals; machines for propelling vessels; locomotive and stationary engines; tires for railway wheels, &c. &c. &c.

Preliminary Examinations.—There is a proposition for the appointment of a number of "Preliminary Examiners," consisting, as it is understood, of one or two mechanical engineers, one or two experimental chemists, and one or two barristers. These examiners to sit in private, and to read, examine, and decide in private whether A.B. is to have his Patent or not, thereby altogether superseding the functions of the Great Seal and the Law Officers in granting Patents, as also in a great measure, the functions of the courts of law in trying Patent rights, and questions after grant of Patent.

The opinion of the great majority of inventors, engineers, and others, who have considered the subject, and are competent to form a true opinion, is I believe against any such institution. I do not believe that 20 examiners could do the work which would be imposed upon them. For instance, in an

application for an invention in textile fabrics the examiner would be required to read and consider at least 1,500 Specifications, as well as every book published on the subject; this would employ him several weeks, and in the end he might possibly altogether miss the point of novelty or utility.

Inventor the true Examiner.—In my opinion the competent examiner is the inventor himself, and were it possible he should be forced to read and examine *before* application for protection. That he does read and examine, to some extent, *after* protection is proved by the voluntary failure of more than one third of the applications in the six months between protection and the Patent. Every inventor has opportunities of examining and reading his subject. He may find the material at hand, not only in the Public Library of the Patent Office, but in almost every public free library in the United Kingdom, in the capitals of most foreign countries, and in all the principal colonies of England. Numerous inventors inquire at the Patent Office, either in person or by letter, the course they ought to take to ascertain the novelty or otherwise of the invention they propose to patent. They are advised to read and examine in the library all Specifications on the particular and similar subjects, as also everything that may have been published on the particular subject. It is quite certain that one half at least of these persons, taking the course advised, have found themselves anticipated, or so nearly anticipated, as to decide them not to waste their time and money upon a useless Patent.

577. (*Vice-Chancellor Wood.*) You index the Patents under heads, do you not, so as to facilitate reference?—Yes; I am going into that subject by and by. This is a circular sent in answer to applicants asking for advice; it affords a great deal of information, and also directions for their conduct. (*The witness delivered in the same. Vide Appendix D.*)

Preliminary Examinations in Prussia.—In Prussia, where comparatively few Patents are granted, the system of preliminary examination has not been found satisfactory, either to the Government or the applicants, it, however, still exists.

In America.—In the United States, Judge Mason, late Commissioner of Patents, reports against preliminary examination. I believe Mr. Woodcroft gave in Judge Mason's report on his examination.

In France, &c.—In France, Austria, Sardinia, and Belgium preliminary examination has been tried; in each country it has been abandoned.

After Patent granted and the Specification made public, the eyes of the whole mechanical world in the department of art to which the invention may belong are brought to bear upon it; by this means it is readily discovered whether the invention possesses novelty or not. Were a tribunal established for the investigation at a reasonable cost of all questions of novelty or infringement after Patent granted, with power to supersede the Patent, if found devoid of novelty, an effective cure would be afforded, and both the Patentee and the public would be efficiently protected.

Cost of Preliminary Examinations in America.—The cost to the Government in America on preliminary examinations amounts to a larger sum annually than the cost in England of printing and publishing all the Specifications of Patents, Abridgments of Specifications, and all other works published in the Office. The cost in letter-press printing, lithographic printing, and paper amounted in 1861 to 16,211*l.* The salaries of the corps of Examiners in the American Patent Office amount in the aggregate to 25,000*l.* per annum. It is so stated in their Reports. I believe also that these Examiners go out of office with the Government.

Printing of Specifications, &c., in Patent Office.—The Act of 1852 directed all Specifications of Patents filed in the Office under the Act to be printed and published; this is done regularly, within 21 days of the filing of the Specification, together with litho-

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graphed copies of the drawings, accompanying the same. This work of publication commenced immediately on the passing of the Amendment Act, 16th and 17th of Victoria (20th August, 1853). The Specifications of all Patents under the old Law from 1611 to 1852 (13,561 in number) have also been printed and published. This work was not directed by the Act, but as the printing the current Specifications was manifestly of little use, leaving the 13,561 old Specifications hidden on the Rolls of Chancery, it was determined to complete the work. The printing of the old Specifications was commenced in 1854 and completed in 1858. Altogether 43,563 Specifications (13,561 under the old law and 30,002 under the new law) have been printed up to this time (December 1862). The printing of the old Specifications cost 95,000*l*. The prints are sold at the Office at the cost of printing and paper, the average price being 6*d*. The average cost of printing a Specification in lithography and letter-press is 6*l*.; 5*l*. for the lithography and 1*l*. for the letter-press.

Abridgments of Specifications.—Abridgments (in classes and chronologically arranged) of all Specifications, from the earliest date to the present time, are in course of publication and sale in small duodecimo volumes. Each subject contains a preface, and at the foot of each abstract references to notices of the invention in scientific and other works, and reports of law proceedings on Patent questions. These abstracts are compiled either by gentlemen at the bar or by scientific persons conversant with the particular class of invention. A fee of 7*s*. is paid upon each abstract.

A list of the Classes already published is given in Appendix D. to my evidence.

Copies of Specifications made Evidence.—Printed copies of Specifications issued from the office, sealed and certified, are admitted in evidence in all Courts within the United Kingdom, without production or proof of the originals, under the Act of 1852.

Indexes of Specifications.—Mr. Woodcroft had, some years before his appointment in the office, compiled for his own purposes, copious indexes of all Specifications of Patents, from 1611 to 1852, in four different forms, an Alphabetical Index, a Chronological Index, a Subject-matter Index, and a Reference Index; a work of great labour and accuracy. This work was purchased of Mr. Woodcroft in 1853, and was immediately printed, published, and sold. The Indexes are continued annually in the same form, and are also printed, published, and sold.

The number of separate entries in the Indexes amount altogether to 330,525. On referring to these Indexes, any Specification upon any subject, from the earliest date to the present time, may be found in a very short time, and a printed copy purchased in the sale room.

Patent Office Journal.—A Journal is published in the Patent Office twice in the week, (Tuesday and Friday), containing notices of applications for Patents, and grants of provisional protection, notices of applications at the Privy Council Office for the prolongation of the term of the Patent, notices of Disclaimers, Patents sealed, Patents on which the progressive duty of 50*l*. and 100*l*. has been paid, Patents void by reason of non-payment, Patents granted in France, America, and other foreign countries, and various other notices relating to proceedings in the office, to sales of publications, the public libraries in which they are to be found, and a great amount of miscellaneous information for the benefit and guidance of inventors and patentees. Translations of the titles of foreign Patents are made for the Patent Office Journal, and are regularly published therein.

578. Does that Journal pay for its expenses?—The sale is large, and it nearly repays the cost.

Sale of Prints.—The sale of prints of Specifications, Indexes, Abridgments of Specifications, and other

printed works in the Patent Office, produce 1,800*l*. per annum, and the sale is increasing.

Free Library in the Patent Office.—A free library has been established in the Patent Office, open to the public every day from 10 to 4 o'clock, containing the printed Specifications, Indexes, Abstracts, and other works published in the Patent Office, together with a large and valuable collection (increasing daily) of English and foreign works, journals, and text books in science and art.

The publications of the Patent Office are also to be found at the Patent Museum, Kensington, in the libraries of the British Museum and the Society of Arts, and are given to the Free Public Libraries of Public Offices, Universities, Societies, British Colonies, and foreign countries, a list of which is set out in Appendix D. to this my evidence.

579. (*Mr. Fairbairn.*) In your Free Library you are not limited to Patents, but you have other works?—In the Free Library we have every work in science that we can procure, and the number is daily increasing. We have not sufficient room at present.

580. These works are all classified and arranged?—Yes, and with proper catalogues. The Foreign countries receiving the publications of the Patent Office, give their publications in exchange for the use of the Patent Office Library.

Surplus Income of Patent Office.—Notwithstanding the great outlay in printing, and the cost of the establishment of the Patent Office, the Library, and the Museum, there is shown upon the balance sheet of income and expenditure in the annual report to Parliament an annual surplus ranging from 30,000*l*. to 35,000*l*. It is proposed to expend this sum, or a considerable portion thereof, in the purchase of a proper site, and in the construction of a new Patent Office, Library, and Museum.

Building of New Patent Office, Library, and Museum.—A report to that effect was made by the Commissioners of Patents to the Treasury in April 1858, and this report was forthwith referred by the Treasury to the Board of Works, with instructions to proceed thereon. A site for the office was found early in 1859, within the gardens of Burlington House, and plans and estimates were prepared. This plan was, however, set aside by the Government in 1860. It formed part of a great plan for the appropriation of the whole of the site of Burlington House to various purposes.

A second report was made to the Treasury in August 1862, on this subject, pointing out a convenient site in Fife House Gardens, Whitehall. This is a print of the report of 1862; it recites in detail the report of April 1858 (*delivering in the same. Vide Appendix E.*)

Trial of Patent Questions.—The expensive, dilatory, and unsatisfactory mode of trying Patent rights and questions calls for amendment.

It might be supposed that the large increase in the number of Patents granted (2,000 at this time as compared to 450 in 1851) would have increased the amount of litigation in the same ratio. Litigation has, however, not increased; no doubt one of the beneficial effects of publication.

It appears from this return from the Petty Bag Office that only three Patents have been superseded under the writ of *scire facias*, and only 11 writs of *supersedeas* issued since October 1852 (*delivering in the same*).

I am of opinion that the patentee should be put upon his defence at the instance of any one who might think proper to attack his Patent on the ground of want of novelty, placing himself in the position of plaintiff, at the penalty, however, of costs, should he (the plaintiff) fail in superseding the Patent, and at the cost of the patentee should he fail in sustaining his Patent,—the plaintiff giving sufficient security for costs.

I would propose to try all questions upon Patents and Patent rights within the United Kingdom in the

Court of Chancery, abolishing jury trials and the Courts of Common Law altogether, as relating to Patent questions; the proceedings in all cases to be by petition, and to be heard, in the first instance, by the Master of the Rolls or a Vice Chancellor, with an appeal to the Lord Chancellor or the Lords Justices; the Master of the Rolls or Vice Chancellor at the hearing to call in, if he shall think fit, one, two, or three assessors to sit with him and advise, in the manner in which the Masters of the Trinity House sit and advise the Judge of the Court of Admiralty in shipping causes. A very efficient list of assessors may be formed from the body of scientific men, mechanical and civil engineers, and experimental chemists. I would exclude, however, from the list all professional witnesses and all having an interest in Patent rights.

The case of *Betts v. Menzies* is an illustration of the unsatisfactory state of the law for the trial of Patent rights. The invention was for "A new manufacture of capsules, and of a material to be employed therein." The litigation first commenced in Chancery and at Common Law in 1857, and is still depending. The writ of error in the House of Lords, the last operation, was heard and judgment given in the last session (1862), reversing the judgment of the Exchequer Chamber. The effect of the reversal is again to open the litigation at Common Law. In the meantime the Patent of the plaintiff *Betts* expires in January next, and on his application for a prolongation of the term of 14 years at the Judicial Committee of the Privy Council his Patent has been extended five years.

The costs in this case of plaintiff and defendant in the several proceedings in the several Courts (Chancery, Common Law, and House of Lords) amount altogether up to this time to the enormous sum of 26,357*l.*; namely, plaintiff's costs, 15,267*l.*, defendant's costs, 11,090*l.* Mr. Sparling, the solicitor for the plaintiff *Betts*, has furnished me with this statement, being a detail of the several proceedings in Chancery, at Common Law, and in the House of Lords, with the actual costs of the plaintiff, and an estimate of the costs of the defendant in each step of the proceedings (*delivering in the same. Vide Appendix F.*).

Heath's case is another remarkable instance of protracted litigation at great cost. His invention was for an improvement in the manufacture of steel, turning upon the use of carburet of manganese. The Patent was granted in 1839. The litigation commenced in 1842, was carried through several courts, and ended at last in the House of Lords in 1855. See Webster's "Case of Josiah Marshall Heath,"

(a separate publication), with introductory observations, published in 1856. The costs in this case, plaintiff and defendant, together amounted to at least 15,000*l.*

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Prolongation of term of Patent by Privy Council.—The Act of 5th and 6th of William the Fourth enables the Judicial Committee of the Privy Council to extend the term of a Patent to a further term not exceeding 14 years. The Judicial Committee being a special Court, the fees and costs are consequently very heavy. This power of extension may be beneficially transferred to the Lord Chancellor or Lords Justices.

Patent Agents.—The Patent agents have become a numerous body, but they are under no discipline or control whatever, either as to conduct or capacity, Barristers and solicitors, on call or admission, undergo severe examinations to test their capacity, and on proof of misconduct the barrister is disbarred and the solicitor is struck off the roll. Solicitors take annual certificates, paying an annual stamp duty thereon. The bench of the Inn to which the student may belong examines him to test his legal capacity; the Incorporated Law Society examines the attorney's clerk for admission in like manner, under the Act of the 6th and 7th of Victoria.

I would suggest that all Patent agents hereafter admitted to practise in the Patent Office should undergo an examination by the Incorporated Law Society to test capacity, the Society being empowered to call in one or more mechanical engineers to assist in the examination. That Patent agents should be formally admitted to practise in the Patent Office by the Master of the Rolls, on certificate of the Incorporated Law Society, as solicitors are admitted in Chancery. That they should take an annual certificate. That lists of certificated Patent agents be published, together with suspensions and removals. The Lord Chancellor or the Master of the Rolls, on proof of misconduct in the agent, to suspend him for a time from practice in the Patent Office, or to exclude him altogether by striking him off the roll of agents. All solicitors and attorneys duly admitted, and taking the annual certificate of attorney or solicitor, to be allowed to practise in the Patent Office without further examination or certificate. Patent agents actually practising in the Patent Office at this time not to be subject to examination, but all to be duly admitted, to take annual certificates, and to be subject to suspension or dismissal. I am informed and believe that the Patent agents as a body are favourable to discipline and admission to practice, as proposed.

The witness withdrew.

Adjourned.

Tuesday, 27th January 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR W. ATHERTON, Q.C., M.P.

SIR HUGH CAIRNS, Q.C., M.P.
HORATIO WADDINGTON, Esq.
W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.
WILLIAM FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

WILLIAM SPENCE, Esq., examined.

581. (*Chairman.*) You have been a Patent Agent, I believe, for many years?—For upwards of 23 years.
582. Are you at present actively engaged in that profession?—Yes.

583. Have you received a copy of the printed questions which have been prepared by the Commissioners?—I have not received them, but I have seen them.

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Esq.
27 Jan. 1863.*

W. Spence,
Esq.
27 Jan. 1863.

584. Have you formed any opinion as to the propriety of increasing or diminishing the cost of obtaining Letters Patent, and also as to the manner in which payment should be made, that is to say, whether the payment should be made in one sum, or by instalments?—The only suggestion that I can make on that point is as to the time within which the payment of 50*l.* and 100*l.* must be made. Instead of, as at present, the payment of 50*l.* being made at the end of three years (and which is practically only two years and a half of enjoyment of the right), I would suggest that it should be made at the end of five years.

585. You would extend the time from three years to five years, so that a Patent, however worthless it might be, should run for five years on payment of the small preliminary expenses?—Yes, but these expenses are from 40*l.* to 50*l.*

586. Will you be kind enough to give your reasons to the Commissioners for wishing that change to be made?—Because I think the present period of payment comes too early to allow the commercial value of the Patent to be adequately tested.

587. You think that cases exist in which a Patent may be really valuable, and yet at the expiration of the three years it has not yielded a sufficient return to justify the Patentee in investing the sum of 50*l.* for the sake of continuing it?—I do; I think that such is frequently the case, in consequence of the Patentee being without sufficient capital to urge on his manufacture.

588. Does it not always happen that, if a Patent is once taken out and secured, or supposed to be so, although the Patentee may not have capital himself, he will be able to find some one possessing capital to assist him?—Not always.

589. Do you not think that any public inconvenience would arise from a prolongation to the extent you have mentioned of Patents which are practically worthless?—I think not, I think that in the competition of ordinary business they would get lost sight of.

590. (*Mr. Fairbairn.*) Do you think that an extension of the time would afford any relief to the Patentee?—I think so.

591. In what way; suppose, for example, the Patentee was a poor man, how would it benefit him?—It would give him a longer time to get a chance of raising some capital upon the invention, or of obtaining some help in making it profitable.

592. (*Lord Overstone.*) In the case of a poor Patentee who was unable to bring his Patent into active operation through his own resources, would not the necessity of providing for the payment of the 50*l.* at the end of the three years stimulate his exertions to find some person who could assist him with the necessary capital?—It might stimulate his exertions, but I think that in many cases those exertions would fail in producing the necessary capital in time.

593. On the other hand, do you not think that the postponement of that payment would be calculated to induce a poor Patentee to remain inactive, and cause his Patent, therefore, to remain a dead letter and unprofitable to the public for a long time?—As far as I have been able to judge from the instances which have come under my observation, I should say that the balance of convenience was in favour of giving assistance to the Patentee in the way proposed.

594. Is it not the fact that those cases only attract your attention in which the Patentee has remained inactive for want of adequate capital, but that those cases in which the efforts of a poor Patentee has brought forward the necessary capital no longer attract notice?—Yes, I quite think that that is the case.

595. (*Mr. Grove.*) Have you found in your experience that the cheapness of Patents has induced a number of poor people to give up their normal trades

and occupations, and that that has led them to dangle for some years after an imaginary invention, or at all events an invention of very little value?—Yes; I am by no means an advocate for cheap Patents.

596. Would it not increase the cheapness of a Patent if you postponed the second payment to the end of five years, giving in that way the Patentees five years to play with their inventions without any additional payment being made?—Of course it would cheapen it to that extent, but there would still be the outlay at first of 50*l.*, for you must reckon 50*l.* in round numbers before you can get a Patent with agent's fees.

597. (*Chairman.*) Assuming the change you have suggested to be made, have you any objection to the further payment of 100*l.*, which is now made at the expiration of seven years?—I would make it payable at the end of the ninth year.

598. You do not propose to commute those two payments of 50*l.* and 100*l.* respectively for an annual tax?—No; as a Patent agent I should prefer all the payments at first; attending to the subsequent payments forms the most unpleasant and responsible part of our business as agents.

599. Will you be good enough to explain that a little?—There is often a difficulty in getting the document back from the Patentee, and of making him understand that we want that as well as the amount, and notwithstanding that we fix a period beyond which we cannot receive the money, we are always kept, so that we are afraid frequently to leave the office when it is coming near the time.

600. In your opinion ought there to be any preliminary investigation of a more searching character than there is at present before a Patent is granted?—No, I think not.

601. Are you satisfied with the present mode of granting a Patent in the first instance?—May I ask what I am to understand precisely by that question.

602. It has frequently been suggested that there ought to be something in the nature of a tribunal to investigate the merit of a Patent, both its novelty and utility before a Patent is granted?—I should quite oppose that; I think it is much better as it is.

603. (*Mr. Fairbairn.*) In order to get rid of frivolous inventions, or inventions of no value, would it not be advantageous if some preliminary investigation into the novelty of the invention were made?—I am afraid it would be impracticable to work that.

604. For what reason?—Because I think that an invention, or an alleged invention, however you may please to term it, is scarcely in a sufficiently tangible shape to be dealt with to that extent. There is to an extent a preliminary investigation now, inasmuch as it is the duty of the Law Officer of the Crown to see that a proper Provisional Specification is put in, and he has power to refuse the application for a Patent unless he is satisfied herein.

605. And there is the power to refuse a Patent at the end of seven years?—The Patent expires at this period if the payment of 100*l.* be not made.

606. Would not a closer investigation into the merits of a Patent before it was granted relieve the Office of a considerable amount of trouble and responsibility?—Not an extensive closer investigation, for I think there would be this evil in it, that when a Patent was granted it would be considered that having passed, that was a sort of guarantee for its utility and its novelty.

607. (*Lord Overstone.*) You think that a Patentee is the best judge in the first instance of the utility or novelty of his Patent; he forming that judgment subject to the consequences of judging erroneously?—I think that the present system of taking the grant upon his own responsibility as to all those points is the best.

608. You think that no better mode of testing in the first instance the utility or novelty of a Patent can be suggested than that which now exists, throwing upon the patentee the responsibility of forming

an erroneous judgment?—I think not taken with the power of supervision and the Provisional Specification and assuming it to be properly dealt with.

609. By proper supervision do you mean the present mode of supervision?—Yes.

610. (*Mr. Grove.*) I presume you constantly come in contact with inventors?—Yes.

611. Have you had any opportunities of seeing tradesmen who have complained of being impeded in their business pursuits by threats of actions from patentees?—I have heard of such cases.

612. Have you ever heard of a case like this, where threats have been made with regard to a matter which, although a tradesman might believe it to be without novelty yet the cost of litigation would prevent him from contesting it, and the party has been obliged to succumb?—I have heard more of the annoyance than of the fact of succumbing to a threat.

613. (*Vice-Chancellor Wood.*) Can you suggest any mode in which any preliminary investigation could be otherwise than *ex parte*?—No, I think not.

614. You could not devise any other scheme without frustrating the whole object of the Patent?—I think not.

615. (*Chairman.*) May we take it as your opinion that, subject to the slight alteration which you would propose, the present mode of granting Patents is satisfactory, that no public inconvenience has been or is likely to be caused by their multiplication, and that they ought not to be refused merely because it is considered that inventions will be taken out of a trifling or frivolous character?—Quite so.

616. (*Mr. Hindmarch.*) Have you ever found any inconvenience arise from the custom of permitting Patents to be taken out for foreign inventions?—I have had very little experience in foreign business but I can speak to this point, that the Americans have complained occasionally of the looseness, as they call it, of our practice, which has the effect of encouraging persons to prowl about the Patent Office at Washington, whence they in fact run a race for a Patent here. Such Americans appear to think that we ought to have a guarantee that the person applying for a Patent has an authority from the inventor or proprietor.

617. Do you consider that greater facilities ought to be given than at present exist for the repeal of invalid Patents?—Yes; I think so. I think that is required as a sort of balance to the present system of granting a Patent on the allegation made by the applicant.

618. That is to say, they are granted with next to no inquiry. Do you think that greater facilities should be given than exist to dispute the validity of Patent?—Yes, I think so.

619. How do you think that ought to be done?—I think there ought to be an open trial.

620. There is a power of trying Patents at the present time by *scire facias*?—But it is a very long process.

621. What fault do you find with the present mode of procedure when any person endeavours to obtain a repeal of an invalid Patent, and what simplification in that procedure do you propose?—The existing procedure relates to Patents I apprehend of all kinds, whether for inventions or any grant of Letters Patent, and for that reason there is a course of procedure which is common to all, and may be useful and right in some cases; but that does not apply to Patents. I think there should be in the first instance a simple lodgment of a statement of the objections, as in the case of an ordinary opposition. Then the fiat of the Attorney-General or other Law Officer might be granted for the trial if a *prima facie* case were made out.

622. (*Sir Hugh Cairns.*) It does not apply to Patents for inventions?—No.

623. (*Mr. Grove.*) The great expense under the

present system of repealing Patents is the cost of the actual litigation?—Quite so.

624. Have you any plan to suggest by which you think the costs of litigation could be avoided; suppose the case of a party having a large commercial interest and wishing to upset a Patent, with large funds at his command, and being able to call many scientific witnesses, the patentee must either yield or meet the case with something like a similar weight of evidence, how can that be got rid of?—It has appeared to me for some years that we have been getting into an artificial mode of trying these cases by an excess of scientific evidence.

625. Can you suggest any mode by which that evil can be remedied?—I think that if the Court had some ostensible scientific aid from men of science, who would be made use of to act in the way of eliciting evidence from workmen, it would be beneficial; the workman is too much lost sight of, and the opinion of the scientific witness is unduly exalted; for as it appears to me, he leads the Court instead of coming in afterwards to speak to the facts which have been established by practical witnesses.

626. (*Mr. Fairbairn.*) You prefer the evidence of practical men to that of scientific men?—Yes, I do. The only case in which I ever had any considerable experience of arbitration in a Patent case certainly tended to confirm me in that preference. In that case only practical workmen, and the directors of those workmen, were present as witnesses, the arbitrators and umpire being all Patent Agents.

627. (*Mr. Grove.*) Suppose the case of two parties who raise an issue and whose interest it is to impede and obstruct one another, those parties have, or one of them has, funds at his command, and it is thought more desirable to have scientific evidence because it produces a greater effect upon a jury, you could not, I suppose, by any law, prevent them from having that scientific evidence?—No, but I think it produces more effect upon juries than upon the Court, especially assuming the Court to be strengthened by the aid of scientific assessors.

628. Then your answers have reference rather to the question of a tribunal for trying all cases?—Yes.

629. (*Sir H. Cairns.*) Putting aside for a moment tribunals, you say that you see objections to the preliminary investigation, but you think that as on the one hand, a patentee should be allowed to take his Patent on his own responsibility, he should be exposed only to an inexpensive method of having his Patent afterwards challenged?—Yes.

630. Have you at all thought of the means of bringing about cheapness and facility in the method, or how you would improve on the present mode of procedure by *scire facias*?—Perhaps by preparing an issue to be tried, and statements of the case for the plaintiff and defendant respectively; the terms of the document for the purpose to be allowed by an officer of the Court.

631. What is the great element of expense according to your experience when parties proceed by *scire facias*?—I think that the artificial mode of trying Patents generally arises from a great desire, in the first instance, to import as much scientific evidence into a case as is possible, and to make the most of any ambiguities in the Specification; and I think that there is an excess of appeal, I should be an advocate for making the judgment of the Court, as to the Specification on all points, except novelty, final.

632. (*Mr. Attorney-General.*) Upon mere questions of law, apart from any matters of fact, you would propose to make the judgment of the first Court, that should take cognizance of the question, final?—Yes.

633. In what way would you leave open to appeal the matters of fact, such as the novelty and utility?—The utility does not appear to me to require any dealing with in that way, because the Patent is assumed to be useful, or it would not be contested.

634. You are aware that in opposition to an exist-

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ing Patent, the objection is frequently made that the invention is not useful?—Yes; but I do not think it is the case when it comes to ultimate trial, at least not now.

635. Does not the question of utility go to a jury?—That has not so much been the case in recent years.

636. Then take the question of novelty, would you leave that as a matter of fact, open to appeal from one jury to another?—No, it should come before the Court again.

637. That is to say, to go again to a second jury?—I do not propose to have a jury in the tribunal.

638. Not in Patent trials at all?—No; not at any rate as a rule. There might be possible exceptions to the rule.

639. Would you propose that Patent cases on all matters of fact should be tried by a Court without a jury?—Yes, by a Court composed of a presiding Judge, with scientific assessors when considered necessary by him.

640. Have you considered what Court it should be, whether a Court of Common Law or of Equity?—I have not considered that question, so as to be able to give a decided preference for the one over the other.

641. (*Chairman.*) Do you conceive that Patentees would be better satisfied to have cases tried before a Judge alone than before a Judge and a jury?—I think before a Judge alone, at least a Judge with other assistance if he pleases to call for it; I mean that our existing system should be extended, for I think there is nothing so good as the existing system in that respect, the Law Officer being entitled to call to his aid such assistance as he may require, to be independent of it if he thinks fit, or to avail himself of it if he pleases.

642. Do you think that in cases of suits instituted by Patentees much public inconvenience arises from the inevitable ignorance of the jury as to the subjects on which they are called upon to decide?—Yes, I think so; I think it has an effect upon the Specifications, a sort of reflex action upon them. I am afraid that many ambiguous phrases are put in on purpose to be managed well in the trials afterwards. I know that I have had to resist their introduction myself in some instances.

643. Will you be kind enough to explain that a little?—I think that the possibility of a chance arising of acting upon the jury through the capability of a scientific witness will influence men sometimes to say a great deal more than they mean, that is to say, to advance a proposition which they really are not prepared to substantiate at the time.

644. (*Mr. Fairbairn.*) Do you think that a Patentee would be equally well satisfied to have his case decided by a Judge instead of by the verdict of a jury?—Probably not until experience had shown him that he gained more, in the long run, than he lost by speedy decisions.

645. Is he not a party to be consulted in the question?—Patentees, who do not believe, as I do, that after a length of time it would produce good results to society, would be very likely to think that it would be injurious to them. I think that the slowness of the proceedings, and the power which men of capital possess to swamp the smaller men, is a great encouragement to occasional acts of oppression.

646. Would there not be some difficulty with respect to the Judge in many cases that come before him, that he might not be competent or possess sufficient knowledge to enable him to decide, and in such cases would he not require competent persons to advise him?—Yes; but my own belief is, assuming the Judge to be a first-rate lawyer, and a man of standing, that there is not a case that he could not deal with, assuming that the facts were brought before him in a trustworthy way, or the proportions of the facts, for that is the difficulty at present, to get out from scien-

tific witnesses the exact proportions of their statements in what they depose.

647. But there would be some difficulty, would there not, however intelligent a person might be, for example, if he were not scientific, when a case came before him that required scientific evidence, would it not be difficult to impress a person of that description with the true and just principles of an invention?—Yes; but taking into account Patent cases generally, I think no kind of person or persons could deal so effectually with the true and just principles of inventions as a superior legal Judge assisted by scientific assessors.

648. Suppose, for example, that a Judge was not conversant with a subject that required scientific evidence, he would require, would he not, to be advised by some person who possessed sufficient knowledge to guide the Judge in order that his decision might be a just one?—Yes.

649. Then the question is whether it would not cause difficulties, and whether Patentees would be as well satisfied or not?—I do not think that it would cause difficulties if scientific men were called in as assistants to the Judge. There was a proposal, I think, of that kind, which was alluded to in the Report of the Special Committee of the Law Amendment Society on scientific evidence in Courts of Law, and that appeared to me to be the right principle. In a letter that I wrote to the engineer, I used words to this effect: "On this point, it appears to me that the plan suggested is the right one. The proposer of the plan wished to see the responsibility always remain with one man. Then where there is responsibility there must be control, so the Judge who tried the case was to be responsible for the decision, but was to have such assistance in forming that decision, as he could derive through the medium of an assessor." Then it was mentioned in another place that "Assessors should be appointed, who should sit with the Judge, and should be bound to give their opinion in public as well as the reasons on which that opinion was formed." That being so, it would show their position, they would be in a responsible position, but not in one at all conflicting with the Judge, and there would be a more perfect record of the science than we now have.

650. (*Sir W. Erle.*) Does that assume that the opinion of one Judge should be final without appeal?—No, the question of appeal was not touched there.

651. (*Vice-Chancellor Wood.*) If you suppose that there should be assessors, ought there to be in your opinion a permanent staff, or do you mean that the Judge should be assisted from time to time, when he thought fit, by selecting some independent person for the occasion?—I do not mean a permanent staff, but that the Judge should be quite at liberty, as he is now, to obtain assistance or not, as he might think fit.

652. (*Chairman.*) Then as I understand your proposal, the assessors so called in would in fact be witnesses, but they would be witnesses called by the Judge, not called by either of the parties, and therefore not giving their evidence as it is now feared scientific witnesses often do, with a strong bias on either side?—Quite so; they should be assistants to the Court in that respect, and also to elicit the practical evidence.

653. Is there not at present power in the Court of Chancery to call in scientific evidence?—Yes; and that is the principle that I should like to see extended.

654. (*Lord Overstone.*) Do I rightly understand you that it has come within your observation and experience that much laxity in the preliminary proceedings arises from a calculation upon the imperfect knowledge of the tribunal before which the matter is ultimately to be tried?—Decidedly. I think that some of the observations in Specifications that are thrown in by the way are so thrown in with a purpose.

655. It is your opinion that if the tribunal was rendered more intelligent we should obtain not only greater certainty of arriving at justice, but we should arrive at it by a more simple and shorter process?—Yes.

656. (*Mr. Hindmarch.*) Do you mean that doubtful expressions are inserted in Specifications with the intention of taking advantage of them afterwards?—Yes.

657. And also doubtful claims?—Yes.

658. Claims are expressed in ambiguous language?—Yes; I think that the existing system in that way is a premium upon ambiguity.

659. (*Sir W. Erle.*) Are you aware that the construction to be put on the language of the Specification is for the Judge?—I am, and for that reason I wish to see him adequately assisted.

660. It would be then in his department that you would require a higher intelligence than is to be found in the judicial department, because words of science are not for the jury?—No, but the consequence of the Judge being without scientific aid is that he declines to construe a Specification, particularly at the first trial.

661. Have you divided the different classes of questions that arise upon Patent trials, for sometimes it is a question of scientific improvement, sometimes it is a mere question of one witness affirming and another denying that a thing has been practised in a certain factory, and there are other classes of questions. Are you of opinion that there ought to be a different kind of tribunal for the different classes of cases?—I think that a similar principle worked out fully would reach all cases as far as they can be reached, but there is undoubtedly an inherent difficulty in the variety of the cases. Still this remark is applicable to other departments of legal practice.

662. (*Mr. Grove.*) What class of persons do you suppose would be open to be selected for assessors, do you mean persons who had discontinued to practice as scientific witnesses or men who were actively engaged in that way?—I think that would depend very much upon the kind of question that arose.

663. I suppose you would hardly take a scientific man who was quite unacquainted with the administration of the Patent Law, and that you must have a man of some experience in what are called the tricks and the mysteries of the process?—Yes; but the main use of an assessor is to get out the fact of the proportions of the invention from a more practical class of witnesses than are now usually employed. It is found by Patentees to be difficult to get out their evidence and to start a case, and to work out the hypothesis, that is to be worked out, without the aid of the class of people called experts.

664. (*Lord Overstone.*) By whom do you think the assessors ought to be selected and appointed?—They should be called by the Judge.

665. Is he to select such persons as he may desire for his own information?—Yes, it might be possible to require sometimes quite practical men, and at other times more scientific men.

666. (*Mr. Waddington.*) As I understand you, you would leave it entirely in the discretion of the Judge to call in assessors or not?—Yes.

667. (*Chairman.*) Your leading idea I think is this, that the Judge should be responsible for the decision of the Court, but that it should be a decision without appeal, and in order to make that decision as perfect as possible, he should have a limited power to call in all such assistants as he might think expedient, the opinions so given to him to be given in public, he being solely responsible for the judgment he gave in the case?—Yes, that is my idea, except as to limiting the power of the Judge to call in scientific aid. I think his power herein should be unlimited.

668. (*Lord Overstone.*) According to the present practice, does the Judge know anything of the nature

of the case before it comes on for trial?—The pleas and notices of objections are arranged.

669. Is the Judge according to the existing practice sufficiently informed beforehand to be able to make a proper selection of assessors.—I should think it would be necessary for some officer to be appointed specially to give him information upon that point.

670. (*Sir H. Cairns.*) The Judge would know whether it was a chemical or a mechanical Patent or one relating to mining?—Yes; and frequently I think he would be better without some of his preliminary information, for at present he is called upon to go over an unnecessarily wide field of inquiry in a case.

671. (*Mr. Hindmarch.*) A copy of the Specification and the various pleas and objections would enable him to understand the subject matter to which he had to give his attention?—Yes, but the pleadings are often too artificial for scientific questions.

672. (*Mr. Attorney-General.*) How would he know the points in the various matters involved in the documents upon which controversy might arise so as to be able to apply his mind to them, how would they come out until the hearing?—It might be possible to call for assistance or to adjourn the case. I cannot tell how that would be, all cases are not so large as they are made to appear by the exaggerations of the contending parties.

673. That is to say the points that would be found upon an investigation of the documents might or might not when the case was opened be really disputed?—Quite so.

674. You know that in practice the area of a controversy is frequently much narrowed when people come to discuss the matter?—Yes.

675. (*Mr. Waddington.*) I suppose you would allow the Judge to have a jury if he thought proper?—Yes; the Law Amendment Society appeared to give good reasons against having a Judge, assessor, and jury, they spoke of the awkwardness of the position of the assessor between the Judge and the jury.

676. But might not the Judge have a jury instead of assessors?—Yes.

677. (*Sir W. Erle.*) Are you aware that in Chancery the Judge has full information before the case can be tried by a jury?—Yes.

678. (*Chairman.*) You are aware that it has been proposed, in order to prevent the use of an invention being exclusively confined to the Patentee, he should under certain circumstances, be compelled to grant licences to other persons to use his invention upon a certain payment being made to him?—Yes.

679. Have you considered that question, and whether it is expedient or possible?—I do not know about the possibility, but I think that it is expedient if it could be arranged. I heard an expression of opinion upon the subject in Manchester in 1861.

680. Is it your opinion that in practice inconvenience arises from Patentees refusing to allow other persons to use their inventions on the payment of a certain sum?—Occasionally.

681. You think therefore that there is an abuse to remedy if the remedy can be found?—Yes; I think so.

682. I suppose the question that would arise would be this, who is to fix the amount of the payment, and who is to estimate the value of the invention, the Patentee would ask one sum and the person desiring to use it would probably propose another, have you considered how that difficulty is to be met?—I think there is very great difficulty in it, and I am not prepared to suggest anything at present.

683. (*Lord Overstone.*) Do not you consider that a Patent is in its nature a monopoly?—Yes, in a limited sense.

684. In other cases where parties are invested with a monopoly is it not the fact that the public

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interests are generally considered to be best protected by leaving those parties to sell their monopolized article at what price they please?—In the case of a compulsory licence being matter of law, the need for it would very seldom arise, for I think the fact of its existence would prevent the necessity for the exercise of the law.

685. The point is this, whether there is as regards this question any real difference between a monopoly which is created by a Patent, and those other monopolies which are possessed in other things by different members of the community?—I think that a Patent is a peculiar kind of monopoly because it is not a monopoly in every sense of the word, for a Patentee is in competition with all others in the open markets in the world. His monopoly may be worthless for other reasons, besides the intrinsic quality of his invention.

686. Suppose there are two parties, one possessing a Patent for a monopoly, and the other possessing a monopoly in the possession of some article, the public interests are considered to be sufficiently protected as to any article in which there is a monopoly in possession, by the price, and is there any peculiarity in a Patent monopoly which renders that principle which is applicable to all other monopolies not applicable to a Patent monopoly?—Yes. I think that a Patent monopoly is of that nature that the Patentee is supposed to be willing to give the public the benefit of his grant, in the exercise of it.

687. Why should not the public rest upon the temptation of high price as a sure mode of obtaining the use of a monopolized article in the case of a Patent as they do in the case of all other monopolized articles?—There are cases in which the Patentee would resist any amount of price.

688. (*Mr. Hindmarch.*) I believe that Patents for improvements upon inventions already patented are very common things?—Yes.

689. You find that the first Patentee frequently refuses to let the second Patentee use his invention upon any terms whatever?—Perhaps not frequently, but occasionally.

690. In cases of that sort, do you think it would be practicable or useful to compel the prior Patentee to grant a licence to the subsequent one?—Yes; it would be useful if practicable.

691. Would that be a mode of getting a subsequent invention more early into use for the public?—Yes; and that is an argument in favour of it I think.

692. Do you see any practicable mode of effecting that object?—Nothing more than that there might be a compulsory reference to compel the Patentee to grant licences for the benefit of the public through the second Patentee.

693. (*Mr. Grove.*) It frequently happens that there are 20 or 30, or even say, four or five Patents taken out; how would you adjust the relative merits or arrive at any practicable mode of adjusting and settling what each party was entitled to for his Patent?—*Mr. Hindmarch* alluded I thought to two sorts of Patents, for instance, there might be one Patent that was for a broad principle, and then another Patent that was for an improvement upon some matter of detail within such broad principle.

694. In the present day there are not many for broad principles; the greater number are for improvements are they not?—They are for improvements, but still they often involve broad principles. It is to be remembered that, owing to the extension of commerce, an invention which is scientifically narrow may be commercially broad.

695. They are steps upon each other are they not?—Yes.

696. Take for example, the power loom, suppose there were four or five Patents, each being a step in improvement upon another, how would you adjust those or how could any arbitrator or tribunal adjust their relative merits?—I think simply by their ordinary intelligence and knowledge of the results

derived from the particular mechanism in each case.

697. Would not the commercial value be more likely to afford a means of adjusting it accurately than the judgment of any individual?—I suppose so, as between several Patentees who only differed from each other in that way; but that I think is hardly the kind of case that *Mr. Hindmarch* drew my attention to.

698. Take the case of a large number of manufacturing instruments for which Patents are constantly taken out, how would you by any means adjust the relative merits of the inventors, each of whom followed upon one another step by step?—I have nothing to suggest upon that.

699. In such a case each of the last inventions would necessarily be altered in its value by the succeeding Patent, and it would be of a fluctuating value; can you suggest how that fluctuation in the value of Patents could be adjusted?—No; it is only a check upon oppression that seems to be required.

700. (*Mr. Fairbairn.*) There is another case that may be put, such as a discovery in chemistry, or in mechanics, and suppose that a Patentee exacted from the public such a high price that it was necessary to compel him to grant licences or something of that sort in order that the public might have the benefit of it, have you any suggestion to make upon that point?—I see considerable difficulty in suggesting any mode of settling upon what terms a licence ought to be granted.

701-2. (*Chairman.*) The question has been raised as to whether it is expedient in the present day, with the greater intercourse that exists between various countries than formerly, that Patents should be granted to those who merely import inventions from abroad, have you considered that question at all?—I have nothing particular to say upon that. I do not know of any inconvenience beyond that which I have already alluded to, the complaint of the Americans.

703. The inconvenience to the public I presume to be this, that if Patents are not granted to the importers of foreign inventions, then any foreign invention may be used in this country by all persons without payment of any kind, do you consider that that obvious disadvantage is balanced by the stimulus that is given, by the existence of a Patent right, to persons to introduce inventions from abroad?—I expect so.

704. (*Sir H. Cairns.*) Does it, in your opinion, require the inducement of a Patent to bring inventions to England, are they not sure to come here without the temptation of getting Patents for them?—I hardly know whether my observations have been so precise upon that point as to enable me to give an opinion upon it. But I think that foreign inventions would not be found in a state so available for public use in this country if there were no English Specifications of them.

705. (*Chairman.*) Is there any other objection in connexion with this subject that you wish to bring before the Commission, or any other suggestion you wish to make?—One point that I have always urged has been the necessity of giving great attention to the Provisional Specifications. There are some persons that complain of the strictness that is now practised; some undue degree of strictness is alleged to be exercised, but my own opinion is that it is for the interest of Patentees and the public also that the work shall be done as well as it is possible to be done, and that the supervision exercised over Provisional Specifications ought to be complete. I have here something written upon that point, headed "Preliminary Investigations," which is a sort of balance to my remarks, for while I am on the one hand opposed to preliminary investigations, yet on the other hand I am in favour of them.

706. (*Mr. Hindmarch.*) Do you see any difficulty in the way of compelling every person who specifies

an invention to state distinctly in some claim or some claims what it is which he seeks to have protected by his Patent?—Certainly not.

707. Do you see any difficulty in practice in defining the nature of an invention which is sought to be patented?—No.

708. You have spoken of the practice of using language not distinct in framing Specifications, has that arisen in any case within your experience from the nature of the subject, or was it done purposely?—Sometimes it is done purposely, I believe. I have had contests with some inventors on that point.

709. We see now very many Specifications without any claim at all, and I believe you find some difficulty in ascertaining what the invention really is?—Yes.

710. Suppose the law made it incumbent upon every Patentee to state distinctly what he claims as his invention, do you know in practice of any difficulty in accomplishing that object?—No. I may add that one point occurs to me which I did mean certainly to mention, it relates to Provisional Specifications. Towards the close of the old practice the applicants for Patents were compelled to specify the particulars of their invention, but were permitted to strike out portions of the deposit of particulars on application to the Law Officer, and I applied, I think it was to Sir Fitzroy Kelly, for permission to strike out a portion of a Provisional Specification. At the time I entertained considerable doubt and eventually I found the statement was too wide for novelty, and it did not appear to me to be safe, considering, according to my reading of the law, the required identity of the invention all the way through. It did not appear to me to be expedient, that we should be at liberty to drop any portion of the original document that it was inconvenient to retain, but ought to apply for permission to narrow the original document. Then there would be a substantial identity in the two Specifications as to the extent of them, and as to the scientific proposition involved in them, whether the description of the one was in the form which I have sometimes illustrated as the soul of the invention, and the other as the body and soul together, there would still be the same invention. I failed in that effort, but I believe Sir Fitzroy Kelly said that he saw value in it, but could not make a rule upon the point. He went out of office and I was never able to revive it; but we have lost a matter of practice to that extent. The application for permission to strike out was recorded, and it appears to me to be important to revive the practice, and then there would be a better means of insisting that the two documents should be co-extensive.

711. (*Mr. Attorney-General.*) Did you apply to disclaim a portion of your Specification?—No, merely to strike out a statement in the Provisional Specification.

712. (*Mr. Grove.*) If you have in your description of the nature of your invention in your Provisional Specification stated too much, or that which you cannot sustain, you have power now, have you not, in your Final Specification of limiting it to the matters which are contained in the proposition which you can sustain?—We do that in practice, but that also gives rise to some ambiguity in the comparison of the documents. Besides it raises the question whether the Patent may not fail for want of proper consideration for the grant, which was based on the terms of the Provisional Specification.

713. (*Chairman.*) With reference to the preliminary investigation, I understand that you have before you a paper from which you wish to read some extract?—“My opinion may be briefly expressed thus: I believe that the powers given to the law officers of the Crown for investigating all applications for Patents are abundant in theory, but the practice is defective, and that all that is required is to bring the practice up to the theory—in other words, I

think the preliminary investigation ought to be confined to the Provisional Specification as it is now, but I think the means at present provided for conducting the investigation quite inadequate to the purpose. I agree with an article published in the *Jurist* in advocating the transference of the duties now performed by the Law Officers of the Crown to a new tribunal; because, ‘they are over-worked, though highly competent men.’ Let us have ‘highly competent men’ not ‘over-worked,’ and then it would be seen how salutary a check could be put upon improper Provisional Specifications. When we consider that there are, on the average, about ten applications for Patents daily, each purporting to contain an adequate statement of the nature of an invention, and that the duty of the Law Officers is to ascertain in each case that the rule of the Patent Commissioners has been complied with,—“The Provisional Specification must state distinctly and intelligibly the whole nature of the invention, so that the Law Officer may be apprized of the improvement, and of the means by which it is to be carried into effect,”—I think we come to see that there is in the aggregate a considerable quantity of work to be got through by two ‘over-worked, though highly competent men.’ But it appears to me that in order to administer Patents properly, it is as important for the Law Officer to check irrelevant statements as to require sufficient statements in Provisional Specifications. In my judgment he ought to require every document to be amended that contained anything beyond the statement of the nature of the alleged invention. It is common for applicants for Patents to insert general expressions relating to matters which are intended to be included (if convenient) in the Final Specification, but which are probably not invented at the period when the Provisional Specification is deposited. The matters here referred to are not merely matters of detail belonging to the invention, the nature of which is stated (these might be inserted in the final document without being named in the Provisional) but matters involving some nature of invention beyond that so stated. In order to administer the check adequately, it might frequently become necessary to make the applicant, or his agent, attend upon the Law Officer to show cause why certain statements should not be struck out or amended. Then again there is a matter of administration to which Sir John Romilly, M.R., used to attach great importance when deposits of particulars of invention (under the old law) came under his notice, that of allowing portions of the statement to be struck out on application. We have unhappily, for the present, lost this practice. The consequence of this is, that it is usual now for Patentees to act as if they were at liberty to drop any matter stated in the Provisional Specification that it may be convenient to abandon, and to concern themselves only about ultimately specifying something within the provisional document. I believe Sir John Romilly’s principle to be the right one, and I trust it may be restored, of which there is some probability, if I have been correctly informed that the present Solicitor-General (no small authority) is favourable to the practice. Looking therefore to all the work for the Law Officers that is involved in a thorough administration of Provisional Specifications, it does not appear to me reasonable to expect that ‘over-worked men’ however competent otherwise can properly discharge the duties imposed upon them. I will only add that I think a competent lawyer, provided he be a good logician is fully equal to the task of preliminary investigation thus indicated, and the cases would be very rare in which it would be requisite for him to call in a scientific man to aid him, because he might properly reserve points of science until the complete description was put in.

714. (*Mr. Attorney-General.*) You stated just now that in your opinion the theory with reference to the

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duty of interference on the part of the Law Officer was perfect, but that the practice did not come up to the theory; are you aware that the duties of the Law Officer are prescribed in exact terms by the Act of Parliament?—Yes; as to seeing to the sufficiency of the Specification and the title.

715. I will read from the 8th section of the Patent Law Amendment Act this passage; “The Provisional Specification shall be referred to the Law Officer, who shall be at liberty to call to his Aid such scientific or other Person as he may think fit, and to cause to be paid to such Person by the Applicant such Remuneration as the Law Officer

“shall appoint; and if such Law Officer be satisfied “that the Provisional Specification describes the “nature of the Invention, he shall allow the same.” That is what you mean by the theory?—Yes; I mean by theory principally this; the Law Officer having the power entirely within his control of availing himself of any assistance to any amount, or of dispensing with it as he may think fit.

716. Am I to understand that you think the Law Officer ought more frequently than he does in practice to avail himself of the assistance that he can call to his aid?—I was rather alluding to the difficulties that we are subjected to by a change of the Law Officer.

The witness withdrew.

Adjourned till to-morrow at half-past four o'clock.

NOTE.—The foregoing evidence relates principally to the mode of trying Patent causes, and the leading idea intended to be conveyed is that the best remedy for the acknowledged defects of the existing system lies in a full recognition of the principle of calling in proper scientific aid so as to enable the Court to construe the Specification definitively, and to exercise adequate control over the scientific evidence. Then it is a question only of degree of improvement what kind of Court should try the case, whether an ordinary Court (of common law or equity), or a special Court for trying scientific cases alone.

As, however, the important point to be established is the value of the proposed principle, it may be desirable to endeavour to make this quite clear.

The principle is that of providing a Court which shall be independent of the aid of scientific witnesses for the interpretation of the Specification, and which shall be strong enough in scientific capability to check exaggerations in scientific evidence. A further effect of such strength in the Court would be a salutary check on the exaggerations of legal advocates, especially when the temptation of working on a jury by eloquence and appeals to feelings was withdrawn.

A comparison may be drawn between the existing mode of trial and that proposed, so as to illustrate the change in an important particular.

At present evidence is given for a Plaintiff Patentee that the Specification affords sufficient information to enable a competent workman to produce the patented article; and evidence in denial of this is given for the alleged infringer of the Patent. Then a question is left to a jury, as a matter of fact, whether what is said by the witnesses for the plaintiff is to be believed, or that said by those for the defendant. But the jury are unable, as a body, to grasp the full import of the question for want of scientific knowledge.

Now, under the plan proposed, the scientific assessors would be competent to supply to the Judge an intelligent answer to this question, because of their antecedent scientific knowledge, and because of the practical control which their presence as recognized expositors of the science would exercise over the evidence. This would be very apparent in their treatment of geometrical drawings, which, if correct, are conclusive as to what they represent; whereas, at present, the drawings annexed to Specifications are but feebly dealt with by Courts of Law.

Such is the principle applicable either to the ordinary Courts of Law and Equity or to a special Court. But a greater degree of benefit might be expected to result from the establishment of a special Court. The argument reported as having been used by the Lord Chancellor with reference to the Bankruptcy Bill appears to me to be applicable to such a Court as this, wherein he speaks of “the benefit that would result from the establishment of an all-sufficient tribunal that would be able to administer justice in all its branches, and would set the example of a

“Court competent to discharge its duty without “dancing the suitor to and fro to enable him to get a “fragment of justice in one place and another “fragment elsewhere.”

The same learned authority also said, “We in “England suffer under evils which have grown up “from the fact that a great portion of justice is “administered by one tribunal, and another equal or “larger portion of justice is administered by another, “the tribunals being frequently antagonistic and “opposed to each other, so that, in point of fact, “justice is constantly elaborated by a system of “counter processes.”

It would contribute much to the uniformity and efficiency of Patent administration if all applications for Patents were referred to a special Court; also all petitions for disclaimers and memorandums of alterations, in fact, if all the business except that of recording applications, registering deeds, &c. (which is done at the Great Seal Patent Office), were transferred to the same Court.

Then if all questions between parties as to infringement and validity of patents, and all applications for prolongations of Patents, were tried by the same Court much facility and saving of time and expense to the parties would result. The officers of such a Court would be in a favourable position for preparing cases for trial by eliminating irrelevant matter. And there might be a special reference library relating to Patents belonging to the Court.

Moreover, in addition to Patents, questions of copyright, trade-marks, and other technical matters might be referred to the same Court.

A few words may be added as to the judgment of the Court being final on the construction of Specifications, except as to the novelty of inventions. It is submitted that a Patent being a grant defined by the terms of the Specification, it is not reasonable that an authoritative construction of the document should be withheld, otherwise the grant becomes a mere chance in a prospective decision. This difficulty arises with great force when a share in a Patent right has to be conveyed from the Patentee to one of the public. The meaning of the document is, in the nature of things, essentially preliminary to all other points of inquiry in Patent cases, and therefore should be conclusively determined by authority at the outset of the proceedings.

The objection to a special Court that a Judge who only tries Patent cases might become narrow as a lawyer, may be met by suggesting that all the subordinate officers and machinery of the Court might be special, while the Judge came from one of the ordinary Courts of Law or Equity, or there might be a special Judge for the Court, who might on important occasions call other judges to his aid.

Again, as to the objection that it would be difficult to find scientific men who would be trustworthy as assessors, it is to be remembered that their function would be limited to advising the Judge as to the

meaning, proportions, and relations of the objects referred to in the Specification; in other words, to the translation of scientific language into common language. And it is submitted that the cause of the present failure in the use of scientific evidence would not be called into operation in the employment of scientific Assessors as proposed. For whereas, in the former case, the scientific witnesses have had to follow the leading of counsel either in the support of, or the opposition to, a pre-arranged hypothesis, ostensibly adapted to the capacities of a jury, in the latter case the proposed Assessors would be free to apply their minds to the technical language of Specifications, for the sole purpose of enabling a calm and learned judicial mind to appreciate the exact nature of the external objects referred to in the document.

Finally, allusion may be made to the important step

taken by the Lord Chancellor in the case of *Hills v. Evans*, of confining the argument to the points on the Specification, before proceeding to those relating to the question of infringement. His reason for doing so was thus expressed:—"I was desirous of having the primary matter first discussed and considered before I put the parties to the expense of preparing themselves for the second question." The "primary matter" was the validity of the Patent, and this turned on the construction of the Specification, as will be seen from the following words of his Lordship:—"Upon every ground, therefore, I arrive at the conclusion that the Plaintiff's Specification is good, and consequently the Plaintiff's Patent must be held to have been conclusively established at law."

It is submitted that this ought to be the constant practice.

W. Spence,
Esq.
27 Jan. 1863.

Tuesday, 3rd February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.

VICE-CHANCELLOR SIR W. PAGE WOOD.
HORATIO WADDINGTON, Esq.
W. R. GROVE, Esq., Q.C.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

JOHN SCOTT RUSSELL, Esq., examined.

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717. (*Chairman.*) You have had considerable experience, I believe, in connection with the Patent Laws?—Yes; I have taken out a good many Patents myself, and I have suffered a little from the Patents of others.

718. You have probably had to defend Patents of your own?—No; I have not defended any of my own. I have never made of mine more than a mere registry of priority of invention. I have not made mine a source of money, but I have suffered in this way from Patents. I have gone on in the course of my business, doing my ordinary work, and I have found other people taking out Patents for what I was doing without calling it an invention, and then prosecuting me under the Patent they had taken out for my own inventions, and it appears that there is nothing to prohibit them from doing that.

719. But if you were able to prove that you had been carrying on an invention, whatever it might be, at the time when the person claiming to hold a Patent for it took out his Patent, would not that relieve you from all difficulty in the matter?—It would only give me the pleasure of defending a lawsuit.

720. (*Mr. Grove.*) Do you mean that you are legally interfered with, or only in such a way as to drive you to defend yourself by a legal process?—It drives me to the cost and trouble of defending myself, whatever they may be.

721. (*Chairman.*) Did you say that you had not thought it worth while to defend any Patents that had been taken out by you, and that you merely registered your invention in order to protect yourself against the patents of others?—That is the real use that I have made of Patents.

722. I may infer, so far as your own practice is concerned, whatever your theoretical view may be, that you are opposed to the system of Patents, and consider that you would be better off if no such things existed?—I should be very glad to see the Patent Laws entirely removed, but I fear that that would be attended with injustice to many other people. I am afraid that we cannot altogether do away with all right of a man to his inventions, and therefore I should be most happy to put all my inventions into the same kettle with the rest of the world, and leave the matter free. I am afraid that you could not altogether do away with the right of a man to the

benefit of the fruit of his own brains; that, I think, is the difficulty, and I have no panacea for it.

723. Does it not come to this, that whereas an inventor, who is in a position to work out his own inventions upon a large scale, stands in no need of a Patent Law for his protection, an inventor who has not the means of carrying out his inventions, except through the agency of others, may be liable, in the absence of a Patent Law, to lose the fruit of what he has discovered?—Yes; and that is why I fear you cannot do away with it without doing injustice to those men. But I will, with your permission, make a suggestion of a practical nature upon that subject. At present, shall I say, the Officers of the Crown make a bargain for the public with a patentee; they say, if you will give us your invention, we, on the part of the public, will give you a practical monopoly for a certain time. I think that it would be good to add to this first of all a power of discrimination, and, secondly, a power of making a price; that is, making a bargain in which price should be an element.

724. (*Sir William Erle.*) You mean a compulsory price?—Yes. For example, suppose a preliminary court of some kind has been constituted a man brings forward an invention for an improvement of iron, and the preliminary court sees no reason why it might not turn out a very valuable invention. Now I complain that you give to this man an unlimited monopoly, and leave him to make any use he pleases of it. I ask you to make a wise bargain for the public and to say, very well, we think it good; we will not give you an unlimited power, but if you will say that everybody shall use this at 1s. a ton, we think that the public might be benefited by it, and we therefore will grant you your Patent in consideration of a fixed licence to use it at 1s. a ton. I say that if you make a bargain, as you do now for the public, I should like you to make that bargain better and more thorough.

725. If I gather your meaning rightly, the two amendments of which you have expressed yourself in favour are these—first of all, a preliminary investigation before a Patent is granted, and next, what is generally called a system of compulsory licences, by which a Patentee should be precluded from keeping his Patent for his own and sole use?—With this addition, that of fixing then and there the preliminary price.

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726. (*Mr. Waddington.*) That is, before the Patent is granted?—Yes.

727. (*Chairman.*) In other words, instead of giving the Patentee a monopoly, as at present, you would only grant him a tax upon the use of the invention at a fixed rate?—Yes.

728. (*Mr. Grove.*) I presume you would fix a maximum price?—Yes.

729. (*Lord Overstone.*) Does not your view involve the appointment either of an officer or of some commission who should estimate the value of a Patent discovery?—Unquestionably.

730. Do you think it is possible to trust to any officer, or to any commission, so delicate and so doubtful a duty as that of estimating beforehand the real value of a Patent discovery?—I do not wish at all to conceal the great difficulty of that case, but I think it most desirable. I do not see why a public Court should not be constituted in which that case might be thoroughly tried, and in which it might be tried with this pecuniary bargain or limited licence as one of the issues to be tried.

731. Do you not think that there would be universal dissatisfaction on the part of discoverers with any estimate that a tribunal so constituted might form of the value of their discoveries?—If they were so discontented I should refuse to give them a blind monopoly; and let this be remembered, that they come asking you to give them an unlimited power over me; for if I, by any chance, happen to stumble upon their invention, and come to you, I think you would have a right to say, I must see what use you are going to make of your power before I give it you.

732. If we look back to the past history of discoveries, do you think that many instances will be found in which discoveries which, at the time, were regarded as of little value, have ultimately proved to be of great value?—Yes.

733. Does not that necessarily involve the admission that such a system would not work justly?—I do not say that such a system would in all cases work justice; that is a special difficulty; but I do say that nothing could work greater injustice *qua* the inventors themselves than the present Patent Law does. Many most meritorious inventors under the present Patent Law are utterly ruined, enrich others, and never pocket a farthing themselves; therefore the present law is as unjust as a law can be in its practical working.

734. (*Chairman.*) Will you be good enough to explain to us in what manner it is that, as you say, many inventors are ruined, through the operation of the present law, because that is one of the points to which we are anxious to direct our inquiry?—I think that the unlimited power given by a monopoly to an inventor has this practical effect at present, that when an invention has been made the subject of a Patent, everybody shrinks from it, everybody runs away from it, everybody avoids it as an unlimited evil, because the person who has the monopoly can subject you to a most expensive prosecution, and can charge you a most inconvenient sum for what you have done, and can punish you in every way for having touched his invention; whereas if you would take away that power of unlimited monopoly, and tie him at once to a small limited sum which he would have power to levy, the inventor would have this great advantage, that nobody would be afraid of touching his Patent any longer, and instead of avoiding the Patent because it was a Patent, knowing that we should only have to pay 1s. a ton for a very great benefit, we should at once examine the Patent, take to it kindly, and prosecute it as far as we could, knowing what the limit was of the difficulty and risk that we were encountering; and so, I believe, you would make the public take kindly to Patents, instead of regarding them as a great evil.

735. Do you mean that at present the dread of approaching a Patentee is so great that persons prefer to forego the use of an invention which may

be very convenient to them in their business, rather than make a mere application to a Patentee to know what he would charge for allowing his invention to be used?—That is continually the case, and for this reason, that the very application that you make to the Patentee immediately raises his ideas, and immediately makes him conceive that he is going to get a great haul, and that immediately puts you into a difficulty, and to a correspondence which will probably cause you great inconvenience hereafter.

736. As I understand the matter, under the present law, a Patentee is not bound, because he has allowed his Patent to be used at a certain rate by one man, to allow the use of it to another?—No.

737. Probably, therefore, in the first instance he would be willing to grant the use of his invention at a very low rate; but a practical illustration of its value might be given to those engaged in business, and if that were established he would then proceed probably to raise his charge?—Precisely so.

738. Is it not therefore the interest of the Patentee to get one, or two, or three persons, at least, to use his invention at the lowest rate, in order that so it might become known to the public?—It certainly is the object of many Patentees to get their Patent tried, and it is the object of many other Patentees not to allow their Patents to be tried, but to constitute them practical monopolies. If, therefore, a man encouraged a new invention it is very probable that the first use that would be made of it would be to turn it against himself. The circumstance of my having cultivated a man's Patent would put it into his power, when I had devoted a great deal of attention to it, at once to come down upon me with a very heavy charge, unless I had made, from the beginning, some special bargain with him.

739. The point I wish to put to you is this. Assuming you to be the first applicant for the use of a Patent, you would make a special bargain with the Patentee, and it would be the interest of the Patentee to agree to that bargain upon favourable terms to you, in order that his invention might become generally known, and no doubt that those who applied later would have to pay a higher rent. But in what sense can it be said that you, as the first applicant, would have your priority of application turned against yourself?—It could not be so said if I had made a bargain for the whole term of years. I grant that the first applicant has it in his power to make a wise bargain.

740. (*Mr. Grove.*) You stated, I think, that there were two classes of Patentees, one of which would be anxious to grant the use of their Patents upon easy terms, whereas, another class would wish them to be monopolies. Were you then alluding to this kind of case, that a Patentee might take out a patent for a thing in which he traded himself, and in which he was anxious to monopolize the entire trade, and would be unwilling to grant licences, while on the other hand another Patent might be taken out merely for some improvement in a thing of every day use, in which case the Patentee might be willing to grant licences?—Yes, those are the two cases that I wish to point out.

741. (*Mr. Waddington.*) Would you apply your scheme of compulsory price to both of those cases?—Yes.

742. As a condition precedent to both?—Yes.

743. (*Mr. Grove.*) Referring to the question of preliminary examination of which you have spoken, if I understand you rightly, you do not conceive that that would be a perfect institution, but it would be the least of two evils; that is to say, the present working of the Patent Law is very defective and injurious even to inventors themselves, and you are of opinion that a preliminary examination, although it might fail, and occasionally shut out a good invention, would be a lesser evil to the public and to inventors than the present system of granting Patents unlimited?—I entertain that opinion very

strongly. I think that a Court composed of a good lawyer, one or two good mechanics, and one or two good chemists, could filter the mass of Patents to a very great extent, and could, at first sight, render to an enormous number of inventors a great benefit, and prevent them from wasting further time, pains, and money upon that which the Court might at once know *primâ facie* to be neither a new nor useful invention.

744. Then I suppose you would assume that the Court would only reject Patents where it entertained a strong opinion, or had a clear knowledge, that the thing was neither new nor useful?—Certainly.

745. But that in a case where the value of the Patent was a matter of doubt they would grant a Patent?—Yes.

746. You have used frequently, in speaking of Patentees, the term, "right to a Patent;" I apprehend that there is no right to a Patent—that it is a monopoly granted *ex mero motu* by the Crown, upon the assumption that the public will be benefited by it?—Yes; and therefore I propose to make it more of a bargain than it is, and that you should say, now, we are willing that this should be a monopoly, provided you make it very beneficial to the public at the price at which you offer it; we will give you a Patent for a new process of making iron if you offer it to the public at 1s. a ton, but if you ask from the public 1l. a ton for it, we will not give it you.

747. In other words they should say, you having no right to a monopoly, we will grant it to you upon you showing us a *primâ facie* case, and consenting to terms that we think will be beneficial to the public?—Yes; and I complain of the authorities who grant a Patent making a bad and blind bargain for me. I think that they make a one-sided bargain for me, and I want them to make a better bargain for me.

748. (Lord Overstone.) You mean for the public?—Yes; and I think that in asking you to do that, you will also render the Patentee a great service.

749. (Mr. Grove.) Then comes the question as to the difficulty of assessing the value of a Patent. Can you give the Commission any practical assistance as to how the value of a Patent, at a particular time, is to be assessed with reference to a licence, it being, in point of fact, a sort of fluctuating thing, the value of a patented invention having reference to the then state of trade, but liable to be altered by a change of trade the next day. How would you, considering the great number of Patents that have been taken out, enable any tribunal to assess the license dues properly?—I think that the difficulty of that would be much less than you anticipate. I think that a Patentee looks generally to a much larger use of his Patent than afterwards takes place, and therefore if you fix it, say at 1s. a ton for a new mode of manufacturing iron, a man knowing the number of millions of tons that are manufactured in this country, and sanguinely believing in the value of his invention, would, at that moment, be willing to make a very low and good bargain with you; whereas, if he has found some person unknowingly using his Patent, and being caught in a trap, he becomes immediately unreasonable and exorbitant. You have given him a power over me (the public) which I do not like, and which I think is bad for him.

750. Your ideas upon this subject are different from those that we have heard generally advocated; you would say that if a Patentee is a dog in the manger, and will not grant a licence, although persons should come and ask for one, previously to making the bargain you should fix terms?—Precisely. I think that if you grant a Patent, you, representing me (the public), I should insist, before you part with my liberty, upon your making a good bargain for me.

751. (Lord Overstone.) With regard to the interests of the public, is it not the fact that Patent monopolies are granted for two purposes, one to stimulate the activity of inventors, and the other to secure to the public the publication of their discoveries?—Yes; for both purposes.

752. Do you think that your plan would be as efficient to accomplish those two results as the present state of the law?—I think more so.

753. Are you of opinion that Patentees would not under your system be less disposed to publish their inventions, when they were compelled to sell at a fixed price, rather than under the present system, which gives them a discretionary power to exact what price they think proper?—I think just the contrary, and for this reason: it must be observed that I am applying my bargain to a tribunal which has the power of rejecting Patents, and when that tribunal shall have passed a Patent, and shall have approved of a fixed maximum charge, say of 1s., that tribunal will have done two things, it will have given the inventor the benefit of an exclusive Patent or boon, instead of the free sort of routine Patent which he takes out now; therefore I think that the Patentee would be greatly benefited by a discriminative Patent, and the public also by having a good bargain made for them at the beginning.

754. Have you any reason to suppose that Patentees generally would take that view of the matter, and would acquiesce in the plan you have suggested?—I should certainly think that inventors would. I know very few men whose inventions are worth anything, who do not desire to have discriminative Patents granted instead of indiscriminate Patents.

755. Will you be good enough to explain what you mean by discriminative Patents?—At present there is an indiscriminate granting of Patents.

756. (Mr. Grove.) You would not say that all inventors would desire to have this discriminative system adopted, but that the inventors whom you could point out would desire to have a discriminative system?—I mean inventors of valuable inventions, as distinguished from men who only think that they have invented, because they do not know and understand the subject, and that is the great majority.

757. (Chairman.) To what extent do you propose that this process of discrimination should be exercised. You would, I presume, reject any Patent that was not new?—Yes, I would reject any Patent that was manifestly not new.

758. Would you reject any Patent because it was considered to be of only small value?—No; but that which was manifestly not new and manifestly not useful; those are the two cases in which I should reject Patents.

759. With reference to that latter point, if a Patent is to be rejected for being manifestly not useful, would not your proposed tribunal be taking upon itself the responsibility of saying that at no time within the next 14 years, which is the term at present fixed, can this discovery possibly become useful, whatever changes may take place in the trade or manufacture with which it was connected?—I do not think that anybody can be responsible for doing more than pronouncing a judgment according to the knowledge which they have at the moment; of course it would be impossible for any Board to be so endowed with foresight as to say that no good could come of any invention within the next 14 years; but many inventions are so manifestly absurd that the greatest benefit to the public and to the inventors, in my opinion, is to let them know at once that it is so; for example, as Members of this Commission are aware, how many inventions there are for putting weights at a greater distance from the centre, so as to produce something equivalent to creating a power; it is well known that there are hundreds of these inventions every day, and it would be the greatest blessing in the world to an inventor of that class to stop him in his career.

760. Take such a case as you have mentioned, that of taking out a Patent for a thing which is mechanically impossible, does it ever happen that a man comes into a Court of Justice to defend a Patent of that kind; because if it does not so happen there is this superiority in the present system, that the Patentee is satisfied, because he has had an oppor-

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tunity of trying his experiment, and the public is not injured, because that experiment has hurt no one?—But he would equally have power of trying the experiment, in most cases at all events, without taking out a Patent, which is the purchase of a prospective benefit; it is the purchase of a prospective benefit to the public, and it seems to me that it is quite fair to make such a bargain.

761. At the present time, if a Patent passes the Law Officers which it is impossible to work, the public is not injured, and the Patentee, when it fails, is satisfied that there is no one to blame but himself; would it not follow from the system which you propose, that the public would receive no additional benefit in such a case, and that the person making the invention would probably for the rest of his life say that he had been ruined by the refusal of the tribunal you suggest to entertain his patent?—There would be many cases, I have no doubt, of great discontent in such a case.

762. You admit that by taking out such a Patent as you have alluded to, no man would be injured except the man who had taken it out?—I do not see that anybody would be injured.

763. (*Vice-Chancellor Wood.*) Would not your plan altogether exclude that class of Patentees to which Mr. Grove just now referred, those who take out a Patent for the express purpose of working it with their own capital, and for the benefit of their own peculiar trade, and excluding others from having the advantages which they enjoy in their particular trade?—Yes, there are such Patentees.

764. Would not your scheme exclude them?—Yes; I fancy that that is really and truly the meaning of such an arrangement. Any man may conceal a thing, and enjoy the whole benefit of it if he likes; but the public do not want him to conceal it, nor to have the exclusive benefit of it; the public say, if you will share this benefit with us, we will give you something in return.

765. As the law at present stands the benefit is shared with the public, by granting to the inventor a lease, as it were, for 14 years of his invention, and then the public come in for the reversion?—Yes.

766. Would you think it advisable that those who are stimulated to invention for the express purpose of improving their trade and business should no longer have that stimulus, but be compelled to give the benefit of their inventions to the public?—I think that they ought to have a moderate and fair stimulus. I do not think it is for the good of the public that when a valuable invention is discovered, some one man only should be permitted to manufacture it. I am quite sure that if half a dozen houses were permitted to manufacture an article, even although paying a large patent right to one, that the improvement of that article would advance much more rapidly.

767. (*Mr. Grove.*) You are no doubt aware that there are cases of Patents which are practically useless, but which, upon the face of them, do not appear to be so, and are not thought so by the Patentees themselves. Would any public impediments, in your judgment, be produced in the case of Patents which would, by discriminating persons, be found to contain but little in them, in consequence of the holders of those Patents menacing others in trade, giving them the option probably of abandoning a more valuable thing, or of contesting an action; the Patentee having a strong interest in expending much money in such a case, but the public not having a similar interest?—That is the most noxious kind of Patent.

768. Do such cases as those produce public impediments, by preventing other inventions of the same sort, but more useful inventions, from being practised?—Yes; and I think I know of such a case as your questions refer to. There are a great many Patents of that kind taken out for boilers of steam engines, and boilers of steam engines admit of a very enormous variety of shape and proportion without damaging their efficiency. The consequence is, that

it is hardly possible at this moment for a man having to scheme a boiler for a new situation or new circumstances, to avoid putting his foot in doing so into a trap which somebody has previously set for boilers. It does not follow because it is a Patent that there is any merit in it; it does not follow because it is a Patent, that it should not suit some particular circumstance which may arise, and yet as an invention it has no merit at all. I would say, therefore, that nearly the whole of the Patents for the boilers of steam engines at this moment are of no practical value to inventors or to the public, but they are continually getting every man who makes a boiler into a scrape with some Patentee, because almost every conceivable form of boiler having been previously patented, and bit of a boiler, one cannot make any sort of boiler without infringing some man's Patent. That is the case of the most numerous and most valueless Patents, which are yet full of injury to the public, and do no good to the authors.

769. (*Vice-Chancellor Wood.*) There was a case something of that kind with regard to the screw, in which several Patentees clubbed together, and made a joint stock company?—Yes; and I think I may illustrate the subject very well in this way, that after you have got one good screw with the largest possible merit of contrivance, you could invent 150 other screws, every one of which should differ from the original, and no one of which should possess any real merit; and yet it would have this effect, that you could not set about making a screw for any particular case without infringing some one of those 100 Patents, and that is an unmitigated evil. I can see no good whatever in having granted Patents for little variations on existing screws which possessed no merit as inventions, and which were no good to anybody.

770. (*Lord Overstone.*) Take that very case. Do you feel confident that it would be possible to construct a tribunal which should distinguish between useful inventions in regard to the screw, and those which you have described to be useless inventions, and to discriminate in a manner that should give satisfaction to the public on the one hand, and to the inventors on the other?—Up to a certain point, but not so far as you put it. I will endeavour to state how far it could decide negatively upon a great number of them. I think that the Court would find it perfectly easy to give satisfactory decisions; but I think it would be necessary, whenever the Court came to ambiguous cases, to allow those to pass; that is to say, to give the benefit of any doubt in their minds always to the Patentee. I think that that is the only way in which they should proceed, for you cannot expect a Court to predict infallibly, in regard to inventions, their precise degree of success and merit. If such a Court could do this, it could absolutely wipe away all those which had no merit of invention.

771. (*Vice-Chancellor Wood.*) Suppose your scheme were adopted, would it not have this great advantage, that by a system of compulsory licences you would encourage the invention of real improvements, because a person, as you are aware, by the present law cannot for fourteen years use an improvement unless he has a licence to work the original Patent; and would not your scheme, therefore, if adopted, very much facilitate improvements by giving parties an opportunity to bring their improvements into immediate action?—I think it would very much facilitate them, and in this way: you might see a very valuable Patent, and you would say, now I cannot take that because some person says, I have patented this, which is a little bit of that; but if I knew that I could get that for 1s. or 14. a ton, I should immediately add this to that; and so you might have a machine which was overlaid by 30 or 40 patents; and provided those 30 or 40 patents were, as I have supposed, at 1s. a horse power, or 1s. a ton, or some such easy price, every man's invention could in this way be instantly brought in to help every

other man's invention. If I were to undertake a negotiation of that kind, involving half a dozen Patents, I do not believe that I should ever make an arrangement with them all to enable me to introduce the invention.

772. (*Mr. Grove.*) With regard to such an examination as you have supposed, there may be two classes of cases to come before the tribunal—one the Patents of which their utility or practicability might be doubtful in the then state of human knowledge. Take, for instance, Davies' mode of protecting the bottoms of vessels: one set of people would say it was not practicable; another set of people would say it was practicable; and there, I suppose, you would assume that a Patent would be granted. But there might be another class of inventions, and a very large number, which, assuming their practicability to the extent which was claimed for them, would nevertheless be of a minute or frivolous character, and no subsequent knowledge could alter that—for instance, the shape of a boiler, and the particular form to be given to a thing; one might have a little more convenience than another; and at the present time the law is, if there be any modification, so to speak, or any utility, it is patentable by law. Would you exclude such inventions as those of which the utility was obviously upon the face of them extremely slight?—Yes, and I can give you two cases I think exactly in point. Almost all engineers agree that little modifications in the shapes of boilers are of no merit and of no value; but some man not long ago invented an entirely new principle in boiler-making, for which, I confess, I anticipate future success. An Italian of the name of Grimaldi undertook to make a boiler move so that every part of the water should come in and turn over every part of the boiler, and he obtained thereby an enormous increase of evaporative power. Now, a perfectly new principle like that of making a boiler move so as to turn the water in it is so palpably different from a mere modification of shape, that I fancy the Court I have supposed would *prima facie* reject the shape; but although it could not predict that this motion would have all the wonderful effects that perhaps it may produce, it would see that it was so thoroughly different in principle from what had been done before, that it would not feel itself justified in saying, "This man shall not have a Patent for it."

773. It might fail partially or entirely?—Yes, but the Court would not reject it.

774. (*Chairman.*) Do you consider that in such a Court as you propose there ought to be any one to represent the interests of the public as against an intending Patentee, because otherwise a Patentee would come with a strong *ex parte* case, and there would be no one to state what could be said upon the other side?—I think that a Court consisting of a lawyer, two mechanics, and two chemists would, from their very nature, sufficiently represent the public interest. There is an aversion, I think, in the minds of skilled men to admit that to be an invention which is of no value, and I think you might consider those four or five officers of the public sufficiently the friends of the public, and I think you might, therefore, entrust them with the making of the bargain.

775. Admitting that, who is to go through the great labour of getting up the case out of Court, because obviously there is a wide difference between a judge having to ascertain by his own investigation that such and such a Patent is not new, and his having simply to decide that it is not new, when all the facts against its novelty are brought before him by counsel or otherwise?—I quite understand that difficulty; but I have no doubt that the value of a discriminative Patent would be reckoned so great that the fees of such a Court would be paid with the greatest pleasure in order to obtain a discriminative Patent. Therefore the Court would be able to appoint two competent persons to report to it whether an invention was *prima facie* useless, or not new, or only a trivial matter. It is quite

plain that those people would be then able to come before the Court with the inventor, and give this decision after hearing. I should not take upon myself to lay before this Commission anything like my own crude views of what such a Court ought to be. I think, however, that I can see perfectly well how a Court would say on this subject. Mr. A. or Mr. B. are excellent judges, call for a report from them, and let them have a fee of ten guineas each for that report. The Court would how to send Patent accounts to the right person to be reported upon, and I think that such a system of discriminative Patents would be well worth the fees of such a Court. There is a difficulty I confess in getting a Court to decide where you have not two opposed parties to fight; and it is one of the advantages of the existing system that you never have a fight until one person goes and covers another's Patent and drags him into Court, and then you have a case ready for the decision of the Court. The difficulty that I see if the other case is that you have not two persons before the Court to do the fighting.

776. (*Mr. Waddington.*) This discriminative Patent is to be unattackable afterwards, I suppose, and not to be allowed to be called in question upon points of utility and novelty in any future proceeding?—I do not quite go so far as that. I have said before that wherever there was a doubt it should be given in favour of the Patentee, and he was to have his Patent; there would be a prestige in favour of it.

777. You would give him no other protection?—I think not.

778. He would be not so likely to be dragged into Court, but he might be?—Yes.

779. (*Vice-Chancellor Wood.*) You are of opinion that that, coupled with a moderate licence, might diminish the tendency to litigation?—Yes. I think it would bring the public and the inventors together, for it must not be forgotten that at the present moment the public and inventors view each other with a kind of hatred, and I want to bring them together. I think that nothing but making them reasonable will bring them together.

780. (*Mr. Waddington.*) There is, as we have been informed, a preliminary investigation in America?—So I have understood, but I can give the Commission no information upon that subject.

781. Nor as to what you propose, namely, the fixing of a price at which a Patent is to be used?—I do not think that that exists in any country, but I think it would be of the greatest value in this country.

782. (*Chairman.*) As I understand you, with regard to the question of a licence, the Court is to decide without appeal, not only as to whether there shall be a Patent or not, but as to what precise value shall be fixed upon the Patent?—Certainly as to a charge, or as to the condition on which a monopoly shall be granted.

783. Therefore it would not only be taking upon itself to declare that an invention is sufficiently valuable to deserve a Patent, but it would also declare the precise degree of value to be attached to the invention?—A price is to be fixed that will allow an inventor to live on the user.

784. (*Sir W. Erle.*) Have you known many Patents granted at various small stages of an invention, all tending towards one great result?—A great many of those exist.

785. Would it not be very difficult to foresee, each stage of an invention being a slight advance upon the former one, which would secure a valuable and profitable result?—The foreseeing is extremely difficult.

786. Would there not be this danger, that the tribunal, after passing three of these stages, would reject the one that was gradually reaching a distant point, stage by stage, but producing nothing, while at another stage it might produce very large advantages and great wealth?—That is so. I think, therefore, that the charging a very small lordship upon each would probably lead to those very men combining, so

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that instead of one of them carrying off the whole price, they would all club together and get the 5s.

787. Has it at all occurred to you to consider Patents for products for which the inventor has seen a small but limited use, and that the product has been applied to an unforeseen use, and has produced immense profit which was never anticipated?—Yes.

788. (*Vice-Chancellor Wood.*) You are aware, probably, with regard to the screw, that six or seven Patentees did combine, and divided the profits arising from all the Patents in proportion to what was considered to be their respective merits?—Yes; and I am obliged to you for suggesting that example to me, because they did in the end agree upon the great screw question just to do what I am now recommending, they appointed arbitrators, and among the half-dozen rivals they had great difficulty, but with difficulty they screwed them all down to a moderate special royalty, and the moment they had done that this unremunerative Patent became a prosperous one, and they all divided a little money. I believe that you would, by moderating the charge made by the Patentee, effect a union between the public and him, which is wanted.

789. Are you aware that at the present time the Royal Society, when papers are presented to them for the purpose of discussion, and of being placed on their Transactions, refer the matter to members of their body to report upon?—Yes, and that is always done by the Council in the Institution of Civil Engineers; we always do the same thing with all valuable papers that are communicated to us.

790. (*Mr. Grove.*) Upon the whole has that practice worked satisfactorily; has the number of objections been few and far between, or has the grievance of rejection been a comparatively limited one?—I never heard of it being a grievance.

791. These, I suppose, would be more difficult matters than anything in the way of Patent protection, or ascertaining whether a paper contains a new discovery or not?—Of course our cases are cases of extreme difficulty, as they would be, I presume, in the Royal Society, because in both cases they are probably discoveries.

792. (*Chairman.*) When Patents had been granted after such an inquiry as you propose, have you any suggestion to make as to the manner in which their validity should be tried, and disputes arising thereupon?—That goes to the question whether a Patent Court for the trial of causes, like the Divorce Court for the trial of divorces, should be established. I think that I may say, for the whole profession and the mechanical world that I know anything about, that we are extremely desirous to have a special Court established.

793. Are you of opinion, especially supposing that the reforms you propose were adopted, that there would be business enough to keep such a Court open during a considerable part of the year?—Certainly. An enormous number of Patent cases are at the present moment driven to arbitration, which is in my opinion an excessively bad way of settling cases very often, simply because we have not a good Court; and I believe that a Court with a Judge and four professional assessors would be infinitely preferred upon Patent cases to a jury trial. I think that in almost all cases you would find that both parties would leave the decision entirely to the Court.

794. Do you think that in such a Court a jury would be desirable or not?—I think not, although a power might be given to call in a jury; but I think that in almost all cases both parties would prefer a good honest Judge with four assessors. I would give him the assistance of four assessors in the manner in which you are no doubt aware that professional assessors are allowed in the Admiralty Court. In that Court the Elder Brethren of the Trinity House are called in when the question to be tried is about putting the helm a-port or starboard.

795. (*Vice-Chancellor Wood.*) Do you think that the assessors should be merely informants to the

Court, or that they should have a voice with the Judge?—I would rather not give an opinion upon that point. I think that an experienced Judge would give a much more practical opinion upon that question.

796. (*Mr. Grove.*) You have stated that both parties would prefer a Court, constituted as you have described, to a jury. At the present time the plaintiff in a Court of Law has, so to speak, a double advantage, for if he has a good case it may be presumed that the Judge will be in his favour. If he has a weak case he has a certain sympathy, and, from having the last word, he may get a benefit from the jury. Do you think that a plaintiff would generally prefer a tribunal with a Judge only?—I would rather not answer that question. I think that question might be better put to another person; but I will go so far as to say that I would not give the parties the option.

797. (*Vice-Chancellor Wood.*) I suppose you would leave to the Judge the option, if he thought there was a matter of fact to be tried, and not to the parties?—Yes.

798. (*Sir W. Erle.*) In your experience have you not seen a great number of dishonest litigants, plaintiffs who bring actions in the way of persecution, and defendants who desire to destroy a Patent, and where one or other of the parties for the most part acts in bad faith, trying to injure his adversary in any way that he can?—I should say that the greater number of Patent cases are cases of oppression.

799. Have you known cases of oppression where the Patentee has been the oppressor?—Yes, frequently.

800. Have you known cases of Patentees with a good Patent, and in which there has been what may be called a dishonest attempt to destroy it?—Yes; I have known both on a very large scale; for example, there was the great hot blast case. I was engaged in that from the beginning in the capacity of arbitrator; and in that great hot blast case the whole litigation arose from the ironmasters, who were making enormous sums of money, wishing to get rid of a very small Patent rate per ton, which had accumulated to an enormous sum in consequence of the success of the Patent. The expenses in the hot blast Patent case amounted, I should think, to more than 100,000l.

801. (*Vice-Chancellor Wood.*) Would not that illustration rather lead you to think that even your plan of a royalty would not be a specific against unjust attempts to deprive a Patentee of his advantage?—It must be admitted that as against dishonest men it is extremely difficult to afford a legal protection.

802. (*Lord Overstone.*) You think that this special Court for the trial of litigated Patents, might be differently constituted from the Court you spoke of for the purpose of granting Patents?—I am not sure that it should be, but I think that the abilities that would qualify for the one would also qualify for the other in the same degree.

803. Your opinion rather is that one Court would discharge both of those functions?—My first impression would be that; but I think that a gentleman who is present might say that he would fear the having originally granted the Patent might give some bias in judgment to the Court that had granted it, if it were called upon afterwards to adjudicate upon its own grant.

804. (*Mr. Grove.*) There might be another question, might there not, that the Court might be supposed to be interested in saving themselves work, and therefore might reject more Patents than they ought to do; do you think there would be any validity in that objection?—There might be.

805. Have you known, in your own experience, cases as against a meritorious Patentee, where it was the interest, so to speak, of the trade to combine against him; for example, the trade might be interested in a monopoly of the existing state of

things, their plant and arrangements might all be adapted to that existing state of things, and it would be a very serious inconvenience to them to displace all their plant and disturb their arrangements, and new people would be in a better position than they were, for new people would only have to build, while they would have to unbuild and build up again?—Yes, and there is another great case to which I may refer, which would show the justice of an early previous inquiry; there was the famous case in the wool trade. A large number of men engaged in that trade combined to litigate that Patent, and at the same time that they combined to litigate it they combined to evade it, and to use machinery derived from it. They intended to evade the Patent, and by a combination there was an evasion practically of the Patent, an enormously expensive and massive litigation followed, and they drove the owner of a most valuable Patent into much easier terms than he deserved, and after they had got it into their own hands they made enormous sums of money of it.

806. (*Sir W. Erle.*) They made enormous profits after they had got it into their own hands?—Yes.

807. The merit of that Patent was, I believe, unknown until Lister's invention brought it into great practice?—Quite so.

808. (*Mr. Grove.*) It may be the case that certain trades in their existing premises are nuisances, that is to say, they are an injury to a neighbourhood, such as many chemical factories, and parties acquire, so to speak, a vested interest in devastating the neighbourhood. Would it not be to the interest of those parties actually to impede an invention that would have the effect of removing the nuisance, as it would bring into the trade a very large competition which they had not to contend with before?—I know of such cases, but I do not remember their having been litigated; but there are cases at Swansea and near Glasgow, where a chimney 450 feet high was erected in order to prevent the devastation of the neighbourhood. Those are cases in which a Patent would be opposed that would benefit the public; and there are many cases of vested interests in which Patents are so opposed.

809. (*Chairman.*) Have you ever considered the question whether Patents should be granted to persons who import inventions from abroad?—I cannot see any equivalent in an importation by a person from abroad for which we should give him a monopoly, excepting the inventor himself applied for a Patent in this country, in which case I do not see how it could be refused.

810. You do not consider that the mere fact of happening to be the first person who brings in a foreign invention from France, Russia, or the United States, ought to entitle him to a monopoly, even for a limited term of years, as against all the rest of the world?—I should think it would be a great misfortune to grant it.

811. (*Vice-Chancellor Wood.*) Supposing, now that there is such a facility of communication with the Continent, we carry the question a little farther off, and suppose that a man discovers in Thibet, or in the interior of China, some very valuable process of dyeing, that it is in his breast alone, is that a case in which you think he ought to have a Patent granted to him?—I am afraid that it is one of the exceptions for which you cannot make a law.

812. (*Lord Overstone.*) Suppose I put it this way, that a person takes out a Patent for an invention, and that it is afterwards disputed, and an endeavour is made to upset it on the ground that he had found that process secretly carried on in Thibet, and was not the real inventor of it, although he brought it into this country and placed it at the disposal of the public. Under those circumstances do you think it would be right to give to the person introducing it into this country Patent privileges, or ought they to be withheld from him?—I say that the case is so exceptional that we could not provide for it by

a general law. I think it would be a remarkably exceptional case.

813. (*Chairman.*) Would it not also be the fact, that in dealing with such a case the importer would take out his Patent as the inventor, and that those who sought to dispute the Patent would have such trouble and difficulty to prove that the invention was not original, that probably they would not think of disputing the Patent?—It might be so.

814. (*Lord Overstone.*) Still, the question is this, whether, in the case of an ingenious and valuable process brought into this country under those circumstances and patented, is it expedient that you should allow the objection to that Patent to be valid which was founded on the fact that he had discovered the process in use in another place, and had only brought it into this country?—There appears to be a merit which deserves a reward in having made a difficult discovery abroad and in having brought it here; but I fear that a general law for imported Patents would be a far greater evil than the one unfortunate case in which an individual would suffer injustice.

815. Still, keeping in view the great object of Patent privileges, namely, to stimulate discovery and to secure the knowledge and benefit of it to the public of this country, do you think that Patent privileges generally, and under the circumstances stated, would or would not tend to stimulate the discovery of inventions in existence in distant places, and so give the benefit of them to the public of this country?—I should say that we do not want any such stimulus to the discovery of such Patents.

816. You think, on the whole, that the benefit arising from such a process would not be a sufficient compensation for the doubts and difficulties that would arise?—Yes.

817. (*Mr. Grove.*) Another alternative I understood you to put was, that if you permitted an importer so to bring Patents from France or from America of inventions which we should see in the Journals in the following week or month, instead of stimulating invention it would have the contrary effect?—Just so.

818. (*Lord Overstone.*) Suppose the case of a person travelling in some comparatively barbarous country, who observes a process which he is sagacious enough to know is really a most important medicinal process unknown in this country, that he possesses himself fully of the nature of it, has practical evidences of its effects, and brings it to this country. Do you think that such a service as that should entitle him in justice to some Patent privilege upon grounds of public policy?—I think it might entitle him to a public reward, but, as a matter of policy, I should not therefore extend a privilege to imported inventions. I think the cases put are very strong, but very exceptional.

819. (*Vice-Chancellor Wood.*) If such a tribunal as you suggest were established, I suppose you would think it might be left to them to grant occasionally a limited or inferior right, with respect to its duration, in such a case as that which has been referred to?—If a tribunal could be trusted with an exceptional power of that kind; but I do not know whether it could be.

820. (*Lord Overstone.*) Suppose Dr. Jenner had discovered vaccination in a foreign country, and had introduced it into this country, would it have been, in your opinion, wise to grant him a patent privilege?—No. I should not think it right to give him a Patent privilege in that case.

821. (*Chairman.*) Do you consider that it is expedient that Patents should be granted to foreigners residing abroad, or to their nominees in England?—Certainly. The same equity which has extended copyright of all kinds to different countries would render that absolutely necessary, I fancy.

822. Is there any other point to which you wish to call the attention of the Commissioners?—Yes. I wish to make one further observation, which is, that

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you do allow an extension of a Patent beyond 14 years at present to be a matter of decision before a competent tribunal; and I was going to suggest that, supposing you will not recommend, or the country will not adopt, a Court for the original granting of Patents, you have at the present moment certain terms upon which, at the option of the Patentee, a Patent is extended for a further period of years. If a Court is not appointed for the first granting of a Patent, I would still cling to the appointment of a Court for extending the time; that would have the advantage of not being an introduction of a new principle, but merely an application of the present principle of extending Patents beyond 14 years to the different periods for which an extension is now to be obtained; and the advantage of that might be that in the meantime a large number of indiscriminate Patents might have dropped of themselves. I throw

The witness withdrew.

Adjourned till to-morrow at half-past 4 o'clock.

Wednesday, 4th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.

VICE-CHANCELLOR SIR W. PAGE WOOD.
HORATIO WADDINGTON, ESQ.
W. R. GROVE, ESQ., Q.C.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

MR. JOHN PLATT EXAMINED.

Mr. J. Platt.
4 Feb. 1863.

826. (*Chairman.*) You have been, I believe, for many years a very large manufacturer in Oldham?—Yes.

827. And you have employed, in various capacities, several thousand workmen?—Yes.

828. In the course of your business, I believe you have taken out a very large number of Patents?—Yes; and I continue to do so down to the present time.

839. Are the Patents with reference to the machine making department, or in what branch of business?—They are principally for machine making, but they are not entirely confined to it; I am the proprietor of many other Patents which are not connected with machine making, for instance brick-making.

830. Have you also been frequently engaged in litigation in defending your own Patents or in resisting the claims of others to Patents?—I have.

831. The Commissioners may take it, that from the nature of your business you have for a considerable number of years been conversant with the working of the Patent Law?—Yes, I have.

832. Have you ever considered the question of the cost of taking out Letters Patent?—Yes, and I see no objections at all to the present system; I think that the late improvement in the Law was a very wise and a very good one. I know that it has been sometimes stated that the price of a Patent in a very great measure has prevented a poor man from taking out one, but I believe that that is entirely a fallacy. I know from my own experience as I am often in communication with working men who have any inventions, that the price of a Patent is never any difficulty, and the money is always found for them.

833. You do not think that, practically speaking, in any department of business the cost of taking out Patents has prevented any valuable invention from being brought into use?—I should say not one.

834. Have you ever heard any complaints made of the manner in which the payment is made?—No; I think that the present mode of payment is a very good one.

835. You are aware probably that it has been proposed that instead of a certain sum being paid at the end of a certain number of years, there should be an annual charge extending over the whole or a part of the time?—Yes; but I do not see any practical advantage in that whatever. It may be observed

that out as a suggestion in case the others could not be carried out.

823. (*Mr. Grove.*) That is to say, you would make it incumbent upon a Patentee, when he came to make his second payment after the three years, to make out a case before a Court, and also at the end of seven years, and so on?—Yes. I hold that that is not a new principle, for you at present do it beyond the 14 years.

824. (*Chairman.*) With this difference, that an extension beyond 14 years is, as I take it, altogether an exceptional proceeding, and a very rare one?—Not rare. The applications are extremely numerous, but the cases which are successfully established are comparatively few.

825. (*Vice-Chancellor Wood.*) There are very few granted, but many applications are made?—Yes.

that now at the end of three years, when the largest sum has to be paid, the Patent is either made or it is worth nothing. Up to that time the amount to be paid is no hindrance to any Patent being taken out.

836. It is your opinion therefore upon that part of the question that no change in the Law is desirable?—I do not see any decided advantage to be gained by it.

837. Another question has been raised of this kind, whether, before a Patent is granted, there should be a preliminary investigation of a more searching character than that which at present takes place?—Yes; and I entertain a decided opinion about that. I think that the present system of granting Patents is such that I scarcely know how to describe; it is certainly taking the money of the public without any advantage, in this sense, that the present Attorney General, or any Attorney General, on applying for a Patent under the present system would grant, perhaps, a dozen Patents for the same thing on the same day, not knowing that they were the same Patents by a mere alteration in the phraseology, or of any word; in fact, I have known when I have had a Patent refused, and have not known the cause of the refusal, that by altering a word the Patent has been passed a few days afterwards.

838. Your complaint in the particular case, is not that Patents pass without inquiry, but that the inquiry is not of a satisfactory kind?—I do not think that in many cases there is any inquiry at all; it sometimes happens that there is one; but even when there is an inquiry, by the mere alteration of a word, or the change of a sentence, the same Patent is granted, and it appears to me that there is no just system unless you have a proper preliminary examination by a tribunal established for that purpose, and which ought to be composed, in addition to a barrister, of scientific men. I do not say in what precise terms. I think further, that upon any application for a Patent being made, no application should be received unless it was accompanied by a model, where that was practicable, and where it was not practicable, that it should be accompanied by Drawings, illustrating and coloring those parts that were new or intended to be patented.

839. Then do you propose that the judgment of such a tribunal as you suggest should be final, so far

as regards the rejection of a Patent, and would you give to an intending patentee any power of appeal in the event of his claim for a Patent being disallowed?—Yes.

840. To whom?—To the same party; but to appear by counsel to explain the reasons, to give a proper explanation, and to hear the reasons, why the Patent was rejected; in fact I have had several Patents taken out in America, and it is not long ago since I had one refused; afterwards I sent further information, and the party appeared before the same tribunal, and after explanation and more explanatory notes, the Patent was granted. I can conceive very great hardship being done by placing the power entirely in the hands of any tribunal to decide as to whether a Patent is good or bad, without some effort being made for the party to appear to explain it.

841. You would propose first of all that there should be no argument on the subject, and that the claim for a Patent should merely stand on its own merits; but if it was rejected then the party might apply again with the advantage of having his case argued?—Yes.

842. But in that proposed plan, who would appear on behalf of the public. There would be, as you propose it, an argument on the one side in favour of the patentee, but I do not see that you suggest that there should be any person on the part of the public to present to the tribunal the other side of the question?—I consider that the tribunal itself would protect the public, and I look upon that as a most important thing that the tribunal should do that.

843. I infer from what you have said, that you consider there is practicable inconvenience now in the multiplicity of useless and frivolous inventions for which Patents are granted?—Yes; my opinion is, that if such a preliminary investigation as I have mentioned took place, nine out of every 10 applications would be rejected, and go no farther.

844. (*Lord Overstone.*) You mean of those that are now granted?—Yes; if a proper preliminary investigation was made by scientific men nine out of every 10 applications in my opinion would be refused.

845. What do you think would be the effect upon the vast number of disappointed applicants if they were so peremptorily rejected by this tribunal?—It is just in this way now, that it is positively dangerous for a person engaged in business in a large way as I am, considering the number of Patents that are granted so indiscriminately, I say it is very difficult for a person to carry on business at all, for the present system seems to be to grant to all applicants Patents, leaving the parties to fight it out in the country afterwards as to whether there is novelty or not.

846. Can you give the Commissioners any instance from your own experience, in which you have been put to inconvenience in that manner?—I can. The case that I am about to allude to was the case of *Jones v. Hacking*, and it occurred in this way:—The 14 years of the Patent had expired, and five years, so that it was 19 years from the date of the Patent before the action that I now speak of was commenced. It was commenced by the parties, and I may say that the person who was the original patentee was a person of no money whatever; but he persuaded some party, I believe some lawyer, to advance some money in order to take up this case. I know that many machine makers, rather than contest the case, absolutely paid the money—the different sums of money that were demanded of them. I came up this afternoon with a gentleman in the train from Manchester who mentioned this case to me, and who stated that one of his own clients offered as large a sum as 2,000*l.* in one case to settle the matter. I found that the system was to attack the smaller men, and by that means to extract money in different ways, and there have been a number of instances in which parties have paid in that way. Although not attacked in this instance myself, a neighbour of mine was; I looked over his evidence, and I told him that I thought I could amend it very much, and I told him further that I would

be a party to the expense; I said let me take the case in hand, which I did. Now 19 years is a very long time for a machine, and this machine was of a very valuable kind, hundreds upon thousands had been made during the 19 years, and if this person could have established his claim to a Patent right, he would have made a very large sum of money, so large as to be almost incalculable. It so happened that I recollected when it was brought to my memory, that we had made a number of those machines long before the date of that Patent, and the difficulty then was to prove that such a machine had been made, for in 19 years, speaking of cotton machinery, such machines would probably all have been broken up; scarcely any were to be found in the country; but it so happened that in one instance a very large firm of manufacturers in Preston, of the name of Horrocks, Miller, and Company, had two or three of these machines still left. I got Mr. Miller to come up to London, and we brought one of these machines with us; it was taken into Court, and in a moment their own witness admitted that this was precisely the same thing that the other parties had been paying royalty to this man for, and the case was at once abandoned by Mr. Webster, who was then conducting it. The moment he saw this machine, and Mr. Miller and myself were placed in the witness box, the case was abandoned. I mention this instance to show the necessity that there is when a Patent is applied for that there should be some record made. I find in a majority of instances that the drawings are not a sufficient record; and I think if there could be a museum established in which a model, for instance, of this machine to which I have just referred when the Patent was granted should be placed, there would be less difficulty, as there would have been less difficulty in proving the case to which I have referred before; it was a mere accident that it was proved, and only because it turned out that just one machine was in existence, although, as I say, it might have cost me a very large sum of money, and others too.

847. (*Vice-Chancellor Wood.*) Had your own previous machine been patented?—No.

848. Then you would not have had a model of that?—I am speaking of that as a model.

849. I thought you said that there would have been a greater facility in proving the existence of the old machine by a model?—Yes, and so there would as a general rule; I gave that as an illustration, possibly it might occur the other way; but if you had models, they would be so easy of reference. In the case that I have referred to there was no record of the machine anywhere; it had become so altered in course of time.

850. (*Chairman.*) If I understand you, your proposal is that the preliminary investigation you have suggested should confine itself to the question of whether the Patent was really new or not?—Yes.

851. You would not go into the further question, whether the Invention proposed to be patented was of any value or not?—No; I would simply ask whether it was new.

852. As I understand your plan it comes very much to this, that you would have the course of proceeding adopted with regard to all Patents which is at present adopted in the case where an application for a Patent is opposed?—Yes.

853. But I presume that you would not propose that trials should take place, as you suggested, before the law officers?—No; I think it would be better that they should be assisted by some scientific persons in a case of that kind; however, I have not matured any plan in my mind.

854. You would confine the tribunal to the simple question, has this invention been patented before or not?—Yes.

855. I put that to you so because it is clear that such a tribunal could take no cognizance of the existence of a similar invention elsewhere if it had not been patented?—No; I think that that limitation would be quite sufficient. I do not think they could

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be expected to know what had taken place elsewhere.

856. (*Lord Overstone.*) After that, do you think that any invention that had been in use before ought to upset that decision, founded only on the knowledge of what had been patented before?—Certainly, if it was found afterwards to be in public use, then of course the law would deal with that.

857. (*Mr. Grove.*) You would have a *prima facie* case of novelty made out?—Yes.

858. Then, if afterwards it was found that it was not new, it would have to be contested in the usual way?—Yes.

859. (*Chairman.*) You would altogether exclude from consideration at that stage the question of the value of the invention?—Yes. I do not think that that ought to come under the cognizance of the officers.

860. (*Mr. Grove.*) Would you carry out the question of the value of the invention to any extent. Suppose, for example, a very frivolous invention, such as an inkstand of a new shape, would you grant a Patent for that, or for a toy?—I do not say absolutely that.

861. But that is the question, whether you would put any limit, or grant Patents for any things, such as tooth brushes or hair brushes?—I should certainly refuse frivolous patents such as those indicated.

862. (*Mr. Waddington.*) Is not the system in America almost exactly what you have described?—Yes, it is. I know from experience that that was so in my own case, and I believe it answers remarkably well.

863. (*Lord Overstone.*) You say that in America it answers well?—Yes; that is, it prevents many frivolous Patents from being taken out.

864. Is it not the fact that there is some considerable evidence from America to show that so far from answering well it has broken down?—I did not know that; that is, in reference to this particular tribunal. I believe that there are other parts of the American law that are called in question.

865. It is your opinion, then, that a tribunal might be constituted, consisting partly of judicial knowledge and partly of technical knowledge, which should be sufficient to exercise a complete control over the question of the novelty of a Patent, and in a manner to be satisfactory to the public?—I think so. When Patents are opposed I know that very great good has resulted; for when the cases have come to be tried the knowledge of the opposition has been of very great service, as the parties have been then obliged to give a more detailed description of the inventions they are applying for, and that has limited them very much in their application.

866. (*Mr. Grove.*) How would you provide for the cost of models; the working models of machines are very expensive things?—In America they are principally made in wood.

867. Do you mean what are called diagram models?—Yes, I think that they limit them to that; I forget now, but I think they are about one-eighth of the size of the original machine itself.

868. Are they models of the whole machine, or merely of the part, so far as it can be separated, that is patented?—Where an invention is entirely new they are generally models of the whole machine; but where, as I am sorry to find is the case when it is a matter of combination, then it is not so general.

869. Would not that add considerably to the cost of Patents, obliging the patentee to deposit a model?—No doubt it would.

870. (*Chairman.*) Considering that about 3,000 Patents are taken out yearly, would not the accumulation of models in a few years become enormous?—Yes; but if a person had a knowledge that the investigation spoken of was to take place, you would have so many fewer Patents applied for; and in lieu of 3,000, you would not have above a sixth of the number, perhaps.

871. (*Mr. Waddington.*) I believe that a very

large proportion finally drop through, as many as about nine-tenths, before they come to the time for paying the 100*l.*?—I have seen it so stated.

872. (*Mr. Grove.*) You have referred to a case in which you were a litigant; have you, in addition to the litigation, found practical inconvenience result from threats or menaces being made by patentees in your business as a machine maker?—I think that there is scarcely a week, certainly not a month, that passes but what we have a notice of some kind or other of things that we have never heard of in any way, and do not know of in the least, that we are infringing upon them, and the difficulty is to get at any knowledge; we may be now infringing, and may have been infringing for years, and a person may have been watching us all the time, and when he thinks that we have made a sufficient number he may come down upon us, and there is no record. If a thing is entirely new there is a record by getting a description; but what I mean by a record is this,—A very large number of Patents are now taken out for what is termed a combination of known things, and known things for the same purpose, and the descriptions of those Patents are generally so bad that it is impossible to tell the parts that are actually patented; it is only when you come into Court or after making some compromise rather than go to that expense that you ascertain the fact, and very likely they themselves in many cases do not know the parts that they have actually claimed. It appears to me that as to that question of combination, the granting of Patents for things to do precisely the same work in the same machine, with the addition perhaps of a chain or a couple of bolts, or the form of the lever changed, a straight lever made into a compound one; in matters of that kind it has become a very serious question as to conducting a large business.

873. That, as you see, is a very difficult case, because a thing may be very minute and inappreciable improvement; on the other hand, it may be a very considerable one; take, for instance, the case of the steam engine, where, by merely putting in a peg it will enable the valves to be self-opening and self-closing, instead of requiring a person to do it by hand?—But that is a very different case to what I have given.

874. (*Mr. Waddington.*) It would be rather an alteration in the law that you would propose, I think?—It rather approaches that.

875. (*Sir W. Erle.*) The Tribunal would inquire into the utility if it were a new combination, at least, I think, that is the principle you suggest; but a new Patent for a combination, by using a new form of lever, while it might really be a new form, might be of no utility?—Yes, it may be so, and often is so.

876. (*Lord Overstone.*) Has your attention been directed, or has it come within your observation, to trace the working of the preliminary examination in other countries than England?—Only so far as regards America; the other countries besides England are France, or Belgium, or Sweden. I have never had a Patent refused in any of those countries, and I never gave any Preliminary Specification beyond what I gave in this country. It is in evidence before this Commission that in Prussia and in America, in Austria, Sardinia, and in Belgium where a preliminary system has been tried, in every one of them it has been found to be a failure. It is stated that in the United States Judge Mason, who was lately a Commissioner of Patents reported against the preliminary examination, and I think there is in another part of the evidence a very full statement of the actual words and language used by several persons in America, who have been concerned in endeavouring to carry out that preliminary investigation. I do not know whether there is a return as to the present system which they have in America. I suppose that that is a recent publication. As to Prussia, I do not know that I ever knew a Patent granted, for every application that I ever sent there has been refused.

I have never been refused in any other places, in France or Belgium, and to my knowledge there is no preliminary examination.

877. (*Mr. Waddington.*) In France it has been abandoned, I believe?—Yes.

878. (*Chairman.*) Do you think it would be necessary and possible to define more accurately than at present what should be the subject-matter of a Patent?—I have thought about that but I must confess that I do not see my way to it, excepting so far as this, of course there are what are termed new inventions, such, for instance, for the sake of illustration, as making bricks from dry clay which had never been done before, or the introduction of air into metals, as in the case of Bessemer's Patent, those are what are called new inventions, and those, there can be no question about, are inventions of that character for which Patents would be at once granted. Then there is another kind of inventions, such as applications of known things to other purposes, for instance a steam engine may have a very good motion attached to it and that motion shall be applied to another machine; that appears to me to be a patentable subject, and with these applications of known things, there can be no doubt that Patents ought to be granted; but the difficulty, and I admit it is a great one, is when one comes to a great combination of known things. I think I would not grant a Patent for such a combination at all; I mean for a combination of known things used before in the same machine.

879. (*Mr. Grove.*) Not if they produced a new and valuable result, and if the combination was new?—In nine cases out of 10 they produce the same result.

880. Suppose a combination is new and produces no valuable result?—In my own mind I see so many evils arising from the word "combination" that I would rather abandon it altogether, even at the risk of losing some valuable ideas, or at all events I would give them to the public rather than that you should grant a Patent for a combination.

881. Do not you get into this difficulty, that so many inventions are only combinations as the elements of nearly everything, mechanically speaking, are old inventions which are almost always combinations?—I would simply limit the Patent Law to that extent. I think there are so many Patents granted that it is a great question with me I confess, if Patents for these combinations are to be granted, whether it would not be better to abolish the Patent Laws altogether, as it becomes such a nuisance in conducting a large business.

882. Would not that rather lead you to think that the Tribunal which conducted the preliminary investigation should pronounce upon a combination as upon other things whether it was essentially a new combination or a new result rather than abolish the Patent Laws?—Perhaps that would be one way of meeting the difficulty, I see no objection to that.

883. (*Lord Overstone.*) In what sense do you use the word "combination," is it not the great principle of philosophy that all power which a man has over matter consists in combination only?—Yes; but the sense in which I use the word combination is this, I hold two things in my hand now, and these two motions, as I will term them, are each performing in the same machine a distinct motion, and then a Patent is taken out for the combination of the two together by simply placing a chain or a lever across them; what they do separately they do when combined, and no more, and a very great number of Patents are taken out for that purpose, but there is no invention in it.

884. For your pieces of machinery suppose that you substitute two chemical agents, and that you bring them into combination and produce a new and unsuspected result?—That is a different thing altogether.

885. (*Mr. Grove.*) You are applying yourself to mechanical matters?—Yes, entirely.

886. (*Sir W. Erle.*) There are two classes of Patents, Patents for products, and Patents for improvements in machinery. As to the last, where it is

a new combination of old parts, you would exclude that claim from Patent right?—Yes.

887. (*Mr. Grove.*) For instance, the jacquard loom you might call a combination of old parts, because no part is absolutely new; but you would hardly say that the jacquard loom was not a good subject for a Patent?—No; but it is a new application.

888. Nearly all the inventions in machinery are combinations of old parts and adaptations of old mechanical improvements to new uses?—Yes; but you see there is a very great difference in the way that I put it. If you take the jacquard loom, the parts do not separately the same as I said these things did; it was certainly a combination of known mechanical parts, but not one of them did separately what the jacquard loom did itself. I alluded more especially to the case in which the two motions themselves were doing separately what they would do conjointly; it is for the combination that a person goes and takes out a Patent; and I say that that is one of those cases so difficult to comprehend that a person may be making these machines for years, and not know that any combination of that kind has been patented. I believe that many difficulties would be overcome by a proper tribunal; in that case they would have power to sift all matters as to whether they were patentable or not. I believe there is no doubt that a great deal of the difficulties felt now would be overcome by a fairly constituted tribunal.

889. (*Chairman.*) Have you anything further to add with reference to the preliminary investigation?—No.

890. Have you considered the further question of the manner in which Patents when attacked are defended before a court of law?—Yes, I have thought of that.

891. Do you think, upon the whole, that the present arrangements are satisfactory. I speak of that stage when you or any other manufacturer is brought into a court for an alleged violation of a Patent. Could that question of the validity of the Patent be tried in a more satisfactory manner?—Yes; I do not think that the present mode is satisfactory at all, by a jury. It appears to me that in bringing a case, as I very often have done, from the manufacturing districts to London, and then a number of persons being put into the box to try the case of a mechanical Patent of great intricacy that it is quite impossible they can understand it; the judges may understand it, and the counsel; but you never can make a jury understand it.

892. May it not happen that a question involving intricate points of mechanical construction would be tried before a jury who had never seen a machine?—I do not see how it is possible that they can come to a right decision, unless by accident.

893. Have you considered what you would propose to substitute for that system?—There are two ways, either by a separate court, or by arbitration.

894. Arbitration is a possible result as the law stands at present, is it not?—Yes; it is often done now; I know of a case without citing it, that had been for two or three years before the Court, and at last, after an immense sum of money had been spent it was referred to arbitration; the judges really would not try it, and I was not surprised at it, because it would have taken perhaps a fortnight to have tried that case. It is not possible, and I do not see how the judges can take cases of that kind with all the work they have to do; and independently of that, I do not think it is a proper mode of obtaining a decision upon a mechanical matter.

895. (*Lord Overstone.*) Do you think that Patent cases are a class of cases in which the ordinary advantages supposed to arise from jury trial may be safely surrendered?—Yes; and I have found that to be the general opinion of all the parties that I have come in contact with.

896. Have you considered what you would substitute in the place of that form of trial?—I do not say that I have. I believe that when you come to an

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arbitration, and scientific witnesses, you get at a very desirable result, in fact I believe that you get the best result, the only thing against it is the question of expense.

897. (*Mr. Waddington.*) I suppose you think that arbitrations are almost as expensive as trials?—I should say, quite so; the only thing is that you have a greater certainty of getting at a more correct decision.

898. (*Mr. Grove.*) Have you ever been a witness in a case that was referred to arbitration?—Yes, some time ago.

899. Have you found any objection from the necessary delay and the necessary intervals which take place between the meetings which are general and necessarily incident to an arbitration?—Yes.

900. Arbitrations must be postponed for Court business; for example, if any one of the parties engaged in it, either the arbitrator or the counsel on either side, or the attorneys on either side, happen to be engaged in Court, the case must be postponed and be made subservient to the business of the Court. Does not that occasion very great delay and inconvenience?—It is not only the occasion of great delay, but it is the occasion of very great expense; that is the only objection there is against an arbitration court; at least, an arbitration conducted in the present form. If you could have the same judge, for instance, and the same class of witnesses, and the same mechanical assistance or scientific assistance given to the judge or the umpire as you have in the case of an arbitration, it appears to me that that would be the best possible form of court you could have.

901. Have you found any other objection in arbitrations arising partly from the delay by which the parties are enabled to bring forward constantly fresh evidence to meet the difficulties raised at the previous meeting?—Yes.

902. There being an adjournment, for example, for a fortnight or three weeks, is there constantly a fresh burst of evidence to meet the difficulty raised at the last meeting?—Yes, it is so; and that prolongs the case very much; in fact, the case that I have in my mind now I have no doubt will cost the parties a sum of 4,000*l.* or 5,000*l.* I cannot see how it is possible for the verdict to be against them, for it has been a frivolous and vexatious proceeding from the beginning, and with the idea of extorting money.

903. (*Lord Overstone.*) Do you think that an experienced judge sitting with assessors would constitute a tribunal which, with all the advantages of arbitration, would be obtained without the inconvenience which has just been alluded to?—Yes, I do.

904. In that case have you formed any opinion as to the position in which those assessors should be placed; should they be merely advisers of the judge, or should they be called upon to give their verdict subject to affirmation or rejection by the judge; or how should the assessors be used?—I should say as advisers of the judge; I think that would be quite sufficient.

905. You mean that they should give public advice in court to the judge, but the decision to rest entirely with the judge?—Yes; I think that that would meet the case entirely, of course they would call witnesses before the court in the ordinary way.

906. (*Chairman.*) Do you conceive that inventors generally and manufacturers who may be interested on the other side would be content to have cases of this kind tried by a judge alone assisted by the advice of competent assessors?—I should always be most willing, and I always propose that course myself, rather than go into a court.

907. Is there any inconvenience, do you think, in the present practice, according to which in order to test the validity of a Patent, you must begin by violating it?—No, I do not think that that is often done; of course there are parties who sometimes go to repeal their own Patents; I do not know that that very much affects the present question, and I do not recol-

lect an instance myself in which a person has violated a Patent for the purpose of testing its validity.

908. (*Vice-Chancellor Wood.*) Suppose a person was desirous of embarking in a particular business which he thought might be embarrassed by a Patent, before he expended his capital upon the new business would he not desire to ascertain its validity?—I never heard of such an instance.

909. (*Chairman.*) There is now a mode of proceeding by *scire facias*, and by which it is possible to dispute the validity of a Patent without in the first instance violating it, but that mode is stated to be costly and inconvenient, and I wish to ask you whether in your opinion, it would be any advantage to a manufacturer who thought himself menaced by a Patent which had been undoubtedly obtained, to be able to attack that Patent directly, he being the attacking party instead of being, as at present, the defendant in an action for a violation of the Patent?—I do not think it would be right after a Patent has been once granted, to give any assistance whatever for the repeal of that Patent.

910. A Patent being once granted, you would be content with the establishment of such a court as you have proposed to try cases of violation?—Yes; and I would never give any facilities for repealing a Patent that was once granted.

911. (*Lord Overstone.*) That opinion is founded is it not entirely upon the assumption that greater precautions are resorted to in granting a Patent than at the present time?—Yes; and I would go farther than that; I think it would be very loose and undesirable to give any facilities to repeal any Patent; you must really believe that the party has got something new.

912. (*Chairman.*) You think it just that the presumption of law should be in favour of the patentee, provided his Patent has been obtained after a preliminary inquiry has been made?—Yes, I think so, most decidedly.

913. It has been suggested to the Commissioners by former witnesses that the objection which now exists to the Patent law might be removed if patentees were compelled to grant the use of their inventions to all applicants on the payment of a certain fixed rate. Do you think that that is a reasonable proposition or not?—I do not think that in practice there is any objection to it; what I mean is this, in practice I do not believe that any patentee really does object to grant a licence at the present time; I know that I never refused to grant a licence even to my opponent.

914. It pays you better to allow other persons to work your invention than to keep the exclusive use of it to yourself?—Yes; and not only that, but it prevents that person from trying some other mode to circumvent me.

915. (*Vice-Chancellor Wood.*) Are there not some large manufacturers who like to keep the monopoly of a Patent in their own hands, who obtain money and go on manufacturing without granting licences to others?—Yes; and I think it is a very unwise policy, and it often gets defeated. As a general rule I think it is to the interest of the patentee to grant as many licences as he can.

916. (*Mr. Waddington.*) Leaving the patentee to fix the price himself?—Yes.

917. Are you opposed to the mode by which a person might be compelled to grant a licence upon what might be thought by others to be reasonable terms?—Yes; because I think that would be interfering with a man's own property.

918. (*Lord Overstone.*) You have stated that a refusal to grant licences for a proper consideration would be very unwise on the part of the person holding the Patent; has it been a matter of experience with you that that view is generally taken by patentees?—As a general rule it has, but we meet with some exceptions; a case occurred the other day that was tried, and caused much unpleasantness between the parties concerned. There are some

cases of that kind, but I do not think they are very common.

919. Not so common as to require, in your opinion, any improvement in the form of legislation?—I think not.

920. (*Chairman.*) Would there not be very great difficulty if a plan of making licences compulsory were adopted in fixing the proper remuneration to be paid to the patentee?—I think it would be very objectionable.

921. (*Lord Overstone.*) Would it be possible, with any tolerable degree of justice or satisfaction to the public, to constitute any tribunal that could fix the price at which the patentee would be compelled to licence out his patent right?—I should not like to give an opinion in the affirmative upon that question. I can conceive, for instance, in the case of something of great public utility, and I might for the sake of illustration take Mr. Whitworth's gun; in a case of that kind he might wish to keep it entirely in his own manufactory, and refuse to let any one take out a licence, and in refusing to do that great public injury might result; but still, that is a very extreme case.

922. In every sort of monopoly right a complete power over the monopolized articles is invested in the holder of that right, but the ordinary price is found to be a sufficient inducement to bring his conduct into harmony with the public interest; is not that equally true with regard to Patents as to every other form of monopoly?—I think so; I think that his own interest is predominant to all others. I should not object to a clause myself, but I do not think it is necessary.

923. (*Mr. Grove.*) Another plan has been suggested, namely, to make it a stipulation at the time of granting a Patent, as in railway acts where maximum tolls are mentioned, that the patentee shall grant licences for a certain maximum price. The first plan suggested was that where a patentee refuses to grant a licence, the tribunal should adjudicate upon the price; the second plan was, that in granting a Patent a clause should be put in, so to speak, stating that a certain maximum toll should be taken upon granting licences. Should you object equally to that?—I see greater objections to that than to the other, for, when a Patent is granted, it may be worth very little, but afterwards it may turn out to be very valuable, and in fixing any amount it might be too little or it might be too much.

924. (*Lord Overstone.*) You are confident that no tribunal could safely be entrusted with the discretionary power of determining when granting a Patent what the royalty should be that the patentee ought to be authorized to charge for the use of it?—Yes; I should say that it would be very objectionable to confer such a power upon any tribunal.

925. (*Mr. Grove.*) You think that in practice it would be impracticable?—I do. I think it would introduce so many difficulties and interfere, in fact, with the property of the patentee. Practically I do not think there is any necessity for it, because they are very rare instances in which a patentee does not grant licences.

926. (*Vice-Chancellor Wood.*) Another suggestion was this, that at the expiration of three years, when a person is obliged to pay an additional fee, there should then be power, after a Patent had been worked, instead of the renewal being obtained as a matter of form, to require the patentee to make either a fresh application or an application of such a kind that he could not obtain the renewal without coming under terms to grant licences?—There is no question that at the end of three years it is then determined whether a Patent is either valuable or not; the extent of the value is no doubt ascertained by that time, although there are many instances in which that is not the case; for example, in the case of Bessemer's Patent; that Patent had been granted for seven or eight years, and it is only just now coming into use.

927. (*Chairman.*) Have you ever considered that part of the law which relates to the granting of Patents to those who import inventions from abroad?—Yes.

928. Do you think that that right of patenting inventions already existing in foreign countries, merely on the ground of prior importation, ought to be maintained. You are probably aware that as the law at present stands, any person having travelled in a foreign country and observing an invention there which is not used in England, may take out a Patent for it as though it was his own, on the ground that he is the first person to introduce it into this country?—That is very objectionable, I think.

929. You do not consider that with the great facilities for communication that exist at the present day, any such protection is necessary to induce manufacturers to import inventions from abroad?—My own impression is that I would grant no Patents, not even to a foreigner, or his agents, except to the original inventor, for an original invention.

930. And you would grant Patents to every person alike, whether a foreigner or otherwise?—Yes; I would make no distinction in that; I think we ought to encourage them to come here.

931. (*Lord Overstone.*) Does your opinion rest upon the conviction that an invention having been once made, and being in operation in a foreign country, it is sure, without any encouragement, to find its way into this country, and therefore any artificial encouragement of patent rights is not requisite?—No; I think this, that if a person residing in France or in America takes out a Patent, the same party, before it is made public in any of those countries, if he makes an application and secures a preliminary investigation here, should be entitled to do so, that is, before publication.

932. The question goes further than that; for example, take the case of an Englishman travelling in a foreign country, and there observing some process which he thinks highly ingenious, and which, if introduced into this country, would be exceedingly useful; introduces it here, and takes out a Patent for it here?—That is to say, not patented in that country.

933. Patented or not patented there?—I think it would be objectionable if it was the subject of a Patent there; if not, I think it would be perfectly legitimate.

934. You do not object to the principle of granting Patent rights in this country to an Englishman who imports an invention from a foreign country, provided that it has not been patented in the inventor's country?—No.

935. Do you justify that upon the ground that it is a legitimate encouragement given to the introduction of inventions which practically has the same effect as an actual invention in this country?—Yes, in this way, that whether a person is travelling abroad or not, as in this country many ideas occur to a person who is travelling from one place to another; for example, if I were to go into a linen or woollen manufactory, I might see something that would be a very great advantage as applied to cotton, and the same might happen with a person travelling on the continent; he might see something, if he were a manufacturer, that was not exactly like his own manufacture, but something that was entirely different—for example, a different fibre or a different staple altogether; still he might think that it would be very useful, and it would be very useful if applied to his own manufacture; and I think that that would be a perfectly legitimate subject for a Patent.

936. If a person in travelling in this country sees an ingenious process, and takes out a Patent for it, that Patent would be easily upset, on showing that it had been previously in operation. But with regard to the question now under discussion, a Patent taken out in England would not be upset upon the ground of previous practice in another country. I wish to ascertain whether there is, and if so, what distinction

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in the two cases. Why should the previous practice in a foreign country not upset a Patent taken out in this country, when, if the previous practice had existed in this country, it would upset it?—I see now the force of the question; but in that sense I do not think it would be the subject of a Patent. I would treat a foreign country as I would treat my own. If the thing was used in some manufacture or in some machinery, and it was simply an importation, I do not think it would be the subject of a Patent at all. I thought you put it in this way, that if a person saw, in travelling in a foreign country, something used for another purpose, and he saw that it might be successfully applied to his own manufacture, that that would be a perfectly legitimate subject for a Patent.

937. That would be a new application?—Yes, precisely.

938. But where it is merely an introduction into this country of that which has previously been in action in another country, you think that, under no circumstances ought the introducer to obtain a Patent right?—Certainly not.

939. (Mr. Waddington.) Then, supposing a person takes out a Patent in his own country for an invention, and some one else brings it into this country, ought he to obtain a Patent?—No; I do not think that ought to be permitted.

940. Ought a person that brings in a foreign invention to obtain a Patent for it when the foreign inventor has not obtained a Patent for it?—I think you would find so many evils the other way, that it would be better to risk them.

941. (Lord Overstone.) Upon the whole, you think that no Patent right should be granted for the importation of a foreign invention, except to a foreigner who had previously patented it in his own country?—Yes; to himself or his agents.

942. (Vice-Chancellor Wood.) And even then, that his application should be made simultaneously?—Yes; before publication, or within a certain time. I do not think we ought to give encouragement for Patents to be taken out indiscriminately.

943. (Sir W. Erle.) Have you considered that the gain to the public might be the same, whether it was the invention of the party taking out the Patent, or merely the result of the observation of a traveller; suppose, for example, it was a secret like that of making colored glass at Venice, and that an Englishman, at great expense and with great skill, obtained a knowledge of the secret which the Venetians possessed, or of the dyes used in the Gobelin tapestry; and if he, by means of money, skill, and labour, acquired a knowledge of the secret, would it not be just as great a gain to the English community as if he had been the inventor?—Yes; but it would not be a thing of public notoriety. I think that all countries now have got Patent laws more or less, and if there is anything discovered, it is made known immediately to the public.

944. (Mr. Grove.) You think that there would be a risk of loss in not encouraging such particular discoveries, and that every person who was a mere letter carrier, so to speak, and who merely brought a thing from abroad, should have a Patent for it?—I think that we ought to be careful in guarding that.

945. (Mr. Waddington.) Would you allow a person in France to take out a Patent for an English invention, which had been patented here and not introduced into France?—I think that the French law would grant you a Patent under those circumstances.

946. (Sir W. Erle.) If you are the inventor or the agent of the inventor?—Yes. There is one clause in the French law which tells very much against the English people, and that is, that they grant you a Patent and compel you to make the machines in France; that is much to our disadvantage, and I know that at the time of the French Treaty I was examined before the Council at that time, and we made very great complaint of that before the Council sitting in Paris, that although they granted us a

Patent, still they compelled us to manufacture in France.

947. (Mr. Grove.) Have you at all thought of the point which has been suggested of making it incumbent upon the patentee at the expiration of the third or seventh year to apply to a tribunal for a further grant so as to make it something analogous to the prolongation before the Privy Council; that is to say, to grant a Patent for a limited time, making it incumbent upon the patentee to come before the same tribunal again for a continuation of the grant?—There is no doubt that it would be a great advantage at the end of seven years, three years would not be of much service; it depends a great deal upon what conditions you attach to it. I have had one or two Patents at the end of 14 years which have been renewed before the Privy Council for five years.

948. My question was rather whether it might not be desirable, particularly with regard to some classes of inventions which are comparatively unimportant, that the Patent should expire unless the patentee satisfied the same tribunal that the Patent deserved to be continued for, say, more than seven years?—I think that that is a very important suggestion.

949. Do you think that it would be practically beneficial?—If it could be carried out, it would be very beneficial. I do not quite see my way to carrying it out, but if there were no difficulty in it, it would be very beneficial, I think.

950. (Lord Overstone.) Upon the supposition that some more efficient power was given with regard to the preliminary investigation as to the novelty of a Patent, and that a more satisfactory tribunal for trying litigated cases were created, do you think that the Patent laws would then give reasonable satisfaction to the public?—Yes; I think that just those two questions are the only two questions as to which we find any practical disadvantage. The indiscriminate granting of Patents now is a very serious question for people carrying on a large business. And then, again, there is the next question as to the Court, and a case being brought for trial into Court by parties who commence different attacks upon you, perhaps with no other motive but to extract money. If a proper Court was established for the trial of those cases, I do not think that those cases would be attempted at all. In the other case I feel quite satisfied that where there are ten Patents granted now they would be reduced to one.

951. (Chairman.) Is there any other remark that you wish to make with reference to this subject?—No. It was a very important question that was raised by Mr. Grove just now, but still I think it altogether depends upon the other two questions. If the other two Courts were fairly constituted I do not think there would be much difficulty.

952. (Vice-Chancellor Wood.) You speak of two Courts; you would not, I presume, hand over the trial of the Patent to the same Court that originally decided upon the granting of it?—No, I do not think that would be right; even in the first case I should be sorry to place a power in the Court without appeal.

953. (Mr. Grove.) Supposing a person, whoever he was, or a tribunal, refused the second application, would you give any appeal to another tribunal?—No, I do not think there would be any reason to complain after the matter had been fairly argued and the case stated.

954. An appeal to the same person would hardly be an appeal; you would, I presume, not have an appeal to any higher official, such as the Lord Chancellor or the Privy Council?—That is just a question to consider, and I am not quite prepared with an answer upon that. All I would say is this, that it would not do to constitute that Court entirely without some power of appeal. I know that in America it is the rule that they can appear before the same Court with counsel, and that often Patents that have been refused are granted by the same party. There may

be objections to that which I do not know of, but I found no difficulty upon a re-application.

955. (*Chairman.*) Supposing it were decided not to adopt your recommendation as to the first granting of Patents, do you still think that the mode you have proposed for the trial of Patent cases would be a considerable improvement upon the present state of things?—No question about it; but I have a very strong opinion upon the other. I would rather see a number of Patents refused myself at all events. I mean this that where they are real inventions they ought to become a benefit to the parties inventing; but for mere changes such as I have described, and in which there is no invention, I think there should be some check, and a Court of that kind would check it very materially.

956. (*Sir W. Erle.*) Supposing no alteration is made in the present tribunals for trying the validity of a Patent, would it be any improvement if Patent cases were tried in the machinery counties, if I may use such a word, Lancashire and Yorkshire, for the law requires the action to be tried where the cause of action arose, and the tribunal to be in those counties, and there would be plenty of persons of skill on the jury?—In one sense it would not be a matter of

much importance, for there are many parties resident in the two counties of Lancashire and Yorkshire who have very little mechanical knowledge, at least I mean to say that they are each confined to their own vocation, and they would not, perhaps, have much general knowledge.

957. (*Vice-Chancellor Wood.*) Would there not be great risk in those counties that some of the jurymen might have a local connection with the patentees?—Yes.

958. (*Chairman.*) I take it for granted that if you had a special Court for trying Patent cases, that Court must sit perpetually in London?—Yes, I think that is the best place; for you have in London both counsel and scientific men.

959. (*Vice-Chancellor Wood.*) Your principal objection seems to be to a jury?—Yes.

960. (*Sir W. Erle.*) Do you propose to have a special Court or a judge who is taken from his ordinary duties, but who would sit for the trial, with the assistance of scientific men, or to have a special Court, as it has been called, appropriated exclusively to Patents?—I think a special Court appropriated exclusively to Patents decidedly.

The witness withdrew.

Tuesday, 10th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR W. ATHERTON, Q.C., M.P.

SIR HUGH CAIRNS, Q.C., M.P.
W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.
W. E. FORSTER, Esq., M.P.
WILLIAM FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

WILLIAM ROBERT GROVE, Esq., Q.C., a Member of the Commission, examined.

961. (*Chairman.*) The Commissioners are anxious to obtain the advantage of your experience as a counsel who has been long engaged in Patent cases, and we wish therefore to put some questions to you. You have for a good many years been much engaged in Patent cases?—For a good many years. I think I may say 20.

962. You have, therefore, had experience of the working, both of the old law and of the law as it was amended in 1852?—My experience has been rather more of the law since its amendment than of its previous working.

963. First, as to the question of costs, do you think that, looking at the question generally, there is any objection, either to the amount of the payment at present required from Patentees, or to the manner in which the payments are demanded?—I think that if I had to legislate now for the first time, I should put the first cost of obtaining Letters Patent higher than it is now; but as the sum has been fixed, and as there is no general complaint of it, I am not in favour of altering it. I will state the reasons why I think of the two it would have been better to have had the first cost a little higher than lower. We have at present, and had before the Patent Law of 1852, no check, I may say, upon the number of Patents which are granted but the pecuniary one. It is true that that is a very rough check, and may occasionally operate hardly upon a poor inventor; but I do not believe that any system of law could be devised which would enable a poor inventor in this country to fight his own battle. He can only fight it by interesting some capitalist, more or less wealthy, in the probable promise of his invention; and the fact of there being a money payment for a Patent would be a somewhat rude test, it is true, but still a test of the merit or promise of the Patent, because, in order to get any capitalist, or any person who has sufficient funds, to undertake it, the inventor must first of all

satisfy him that there is promise in the Patent. The money payable upon Patents would, therefore, to a very considerable extent, shut off a certain number of them, and those, I believe, mostly of a very inferior character. I agree with Mr. Platt that any invention of merit would never in this country want a person to take it up, and I believe that if the invention was one of great merit, and no person could be found to take it up, no poor inventor could force it upon the public, or fight his own battle. Therefore I do not know that, as the matter is generally done at present, any hardship, further than that which is unavoidable, follows the payment which is imposed upon Patents. As I have said, I would rather have given an increased sum for the first payment; the two other payments of 50*l.* and 100*l.* I do not object to, but I would increase the first payment if I were now framing a scale for the first time. As, however, the present scale has been in operation, and has not been substantially objected to, I would make no alteration in the cost.

964. Is not the objection to your theory that all inventions must be worked by a combination of the inventor and the capitalist this, that in order to obtain the assistance which he requires from the capitalist, the inventor must disclose his invention, and it is then optional with the other party what amount of remuneration he will give the inventor, or whether he will allow him any?—That may be some reason for a cheap provisional deposit, but a mere deposit as a guarantee to the inventor might be easily arranged. The distinction which I would take would be this, that it would not inflict any harm upon the public. Assuming that a slight sum was paid for recording an invention which might ultimately be matured into a Patent, and that then a greater sum was paid, it would remedy the difficulty of the inventor disclosing his invention, while at the same time, if he did not get it taken up, and it never came into operation, the matter would be dropped, and the public would not

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be inundated by a great number of Patents; but I think that it would not be worth while to make an alteration, as the other system has worked moderately well, and as I do not find any substantial complaint of the cost of Letters Patent, although there are some who advocate the granting of Patents almost without any payment. The general body of manufacturers seem to think that the present system, as far as cost is concerned, does not work badly.

965. (*Mr. Fairbairn.*) Is it your opinion that an increase of the first instalment would have the effect of deterring people from coming forward with frivolous and useless inventions?—I think that it would; it would be a very rude test, and undoubtedly an imperfect one, but it would be some test. From my experience of the matter, I think that before the year 1852 there was a much smaller number of frivolous Patents than since.

966. It is a very prevalent opinion that the whole cost of the Patent should be reduced to something like what is necessary to pay the expenses of the officers in the different offices; an advance in the first payment might deter people from coming forward with useless Patents, but would it not at the same time operate against a poor man who could not afford to pay that sum?—For the reasons which I have stated I do not think that it would be of any use to attempt (and I believe that more harm would be done to the inventors by doing so) to make Patents attainable without any expense. There is also another reason, beyond the necessity of getting a capitalist to take up the invention, namely, this: poor men are very frequently uneducated, and they are frequently sanguine, particularly if they are of the inventor class, and if they were induced by the cheapness of Patents to patent their inventions, not only should we have a very great increase in the number of Patents, but many of these men would be for five or six years, or possibly more, dancing after a foolish idea. I believe that none but those practically versed in the subject know how difficult it is to disabuse the mind of a supposed inventor of his invention. I have frequently shown men the thing which they have supposed themselves to have invented; they go away disappointed on seeing it, but the next day they come and say that there is some distinction in their invention. They cannot give up the idea when it is once in their minds, and if you tempt them by too cheap a Patent, you do them a serious damage, you lead them away from their trade or occupation.

967. (*Lord Overstone.*) You think that a money payment necessarily involves some portion of that sober judgment which accompanies the distribution of money, but which is not necessarily associated with inventive faculty?—Yes, it obliges a man to think before spending his money, or to interest some other person who has a calmer judgment than he possesses.

968. (*Mr. Fairbairn.*) Would you diminish the amount of the subsequent payments?—No; I am quite satisfied with the amount of the subsequent payments.

969. What you have thrown out would increase the whole amount?—Somewhat. We have heard it put at 10l.; that is the first payment. I think that it is hardly sufficient.

970. (*Chairman.*) I presume that you do not consider it advisable that there should be any surplus from the Patent Office, after covering the expenses of that department, available for purposes of general revenue?—No; I have not very much regarded that matter, but, in considering reforms in the Patent Law, I should not look to any question of general revenue. It might come in in this way—supposing that any separate Court or separate Patent establishment was created, it might be highly desirable to keep up the fees at such a rate as would pay those expenses, which are peculiar to the administration of the Patent Law.

971. The next question to be considered is that of a

preliminary investigation. Do you think that there ought to be a preliminary inquiry of a stricter character than at present, and, if so, do you think that it ought to be directed to the question of novelty alone, or to the question also of the importance and usefulness of the invention patented?—I certainly had, before I became a member of this Commission, an opinion, and I may say a decided one, in favour of a preliminary investigation; but I am bound to admit that that opinion has been somewhat shaken by the evidence which I have heard here, more particularly by the evidence (although to some extent different evidence has been given by another witness) that this system has been tried in America and has not been found successful; the evidence principally, I think, of Mr. Woodcroft, who stated that some influential persons connected with the matter in America had said that it was not successful. But my opinion, though somewhat shaken, still remains, not perhaps as strong as it was before, that it would be desirable to have a more careful preliminary inquiry. I would say that it is not a new principle, it is not new to the law of England that there should be an inquiry previous to granting Patents. It is the existing law, which I take to be this: a Patent is no matter of right, a British subject has no common law right to Letters Patent for an invention. It results from an exception introduced by the Statute of James, which, when monopolies were abolished, or rather when they were declared illegal, reserved a monopoly in Letters Patent for the first and true inventor of any new mode of manufacture. Therefore the law, as I take it, was, and is, that the Crown may *ex mero motu*, of its own will, grant Letters Patent for a new invention, but it is not at all bound to do so. The Crown, of course, cannot act in person in the matter, but, so to speak, devolves its functions upon its legal advisers, the Attorney and Solicitor General, and they are to inquire and advise the Crown whether a Patent should be granted for such and such an invention. I therefore take the present law to be that the Patentee should make out a *prima facie* case of promise (if I may use the term) in his invention, and upon that the Law Officer should advise the Crown to let the Letters Patent issue. The question then becomes not, is a preliminary inquiry desirable, because we have it, but is it desirable that it should be made a little more stringent than it is? We have heard that the general examination of the Attorney and Solicitor General (I believe previously to 1852 there was none, excepting in opposed cases) is an examination upon the face of the Provisional Specification as to whether it discloses any invention or not; although we hear that occasionally when a thing has been obviously very old the Law Officers have taken advice as to whether they should grant a Patent for it. I certainly think that that examination might be conducted either by them, or, if they have not time, by some other functionary, more strictly. I think that if, upon an examination, the thing were obviously old, or obviously, granting the Patentee's own statement of his case, of trifling value, Letters Patent should not be granted for it.

972. You would include the case of an invention being of trifling value?—I would, and the legal conception of it, if I may so term it, is this: the Statute of James, if I recollect the words rightly, talks of any manner of new manufactures within this realm. Now I certainly have never taken that to be intended to apply to mere changes in form or user of minute and insignificant things; I think that it applies to substantial manufactures—any great improvement in the manufacture of copper or iron, the introduction of such a manufacture as aluminium, the power loom, the Jacquard loom, the steam engine, and other things of that sort. I think that the inventors of those things should have Patents and should be rewarded. Although I know that the Law Courts have come step by step to include a greater number of inventions, yet I should not call an improvement in a shirt frill, that is so say

a peculiar method of cutting the little puckered linen which is sewn and used for shirt frills, or a particular shape of the brim of a lady's hat (I am speaking of existing Patents), a proper subject for a Patent. I do not know that I can say that such Patents are not legal as the law is construed, but I think that they should not be granted.

973. (*Lord Overstone*.) Is it not the fact that our progress in machinery is really effected by a continuous process of small improvements, one superimposed upon the other, and ultimately leading, though by very infinitesimal steps separately, to a great progressive improvement in the end?—That very frequently is so, but on the other hand there are very frequently great jumps in those progresses. If you take the improvements in the loom, we have very notable ones, very distinctly recognizable steps, and we have also very minute ones which are hardly of any comparative value. If I could do such a thing (I do not say that it could be practically realized), I would exclude from Letters Patent those changes which would naturally follow in the ordinary user of the machines. I would not prohibit a tradesman from exercising the same ordinary skill in using his machine as we should all be expected to exercise in anything which we happened to make, or from changing its form.

974. Do you think that it would be possible practically to draw that distinction?—I think that to a considerable extent it would, and thus—I am assuming that the person who was entrusted with the duty would never refuse a Patent where its promise, assuming it to be successful, was great—he would only exclude such things as, even giving the inventor credit for everything which he proposed as a success, produced a very trifling change in ordinary matters.

975. (*Mr. Fairbairn*.) Do you think that the present system of investigation on the part of the Attorney-General is imperfect?—I think that it might be extended and made more stringent.

976. That could not be accomplished, I apprehend, without some officer or officers to advise him?—That question the Attorney-General, perhaps, could better answer than I could, as to how far the Law Officers of the Crown, without some assistance in that matter, could further extend their inquiry. It is a matter depending upon their power of disposition over their time. I myself see no other means of remedying what I certainly occasionally have had very strong cases of, and what Mr. Platt mentions, namely, the great number of Patents which are really of no practical value, although they may be of sufficient novelty to make them legally good Patents.

977. But all those Patents of a frivolous character and of very little value die a natural death, do they not?—Not all of them. They ultimately die, but they frequently in their short life produce a good deal of inconvenience.

978. And they crowd the Patent Office?—Yes, and they not merely crowd the Patent Office, but they inconvenience the tradesperson. We have heard from Mr. Platt how many applications of this sort he has. I have had this sort of thing happen to me. A person comes to consult me upon some little improvement which he has made in the articles which he commonly sells. He says, "I have produced this season a new pattern, and I have had a threat by A. or B. that I am infringing his Patent; what am I to do? I must either destroy 20*l.* or 30*l.* worth of articles which I have made, or I must go to the expense of probably 500*l.* or 600*l.* to defend a Patent action." It is possibly worth the Patentee's while to go the expense of an action, but not of the person who is making the articles; he had better destroy them.

979. (*Mr. Fairbairn*.) I am very frequently consulted by working men, and by all classes, in fact, to obtain an opinion as to whether their special invention is worth a Patent or not, and I generally tell them very honestly that I think it is not worth a Patent. Most of them go away thinking that I know nothing at all about it, and they go to a Patent Agent notwithstanding

that they have from me a distinct opinion upon a subject which I thoroughly understand, and they take out a Patent?—That rather confirms what I have stated, namely, the extreme difficulty of disabusing a man of the idea that he has an invention.

980. (*Lord Overstone*.) Do you think that the investigation as now conducted before the Law Officers of the Crown has any practical efficiency and value?—I think that it has some value, but I think that it might be rendered more stringent. It at all events ascertains, as I understand it, that the alleged invention has something upon the face of it—that it is not a mere trap. I think that the principal value of it is this, that it to some extent shuts off and prevents a class of cases which were originally productive of a great deal of evil, namely, mere fraudulent Patents, Patents taken out for the purpose of catching up other persons' inventions. I think that the present *ex facie* examination of the Provisional Specification by the Law Officers has had a very beneficial effect in putting a stop to that. I do not think that there are now in the field so many dealers in Patents, as they used to be called, as there were. I have heard a man state in the witness box when asked what he was, "I am a dealer in Patents."

981. You are decidedly of opinion that the examination by the Law Officers of the Crown is efficient and valuable?—I think it is of value, but that it might go further.

982. (*Mr. Forster*.) A suggestion has been made by some person interested in Patents, that there would be an advantage in having a permanent legal officer for the purpose, the Officers of the Crown being subject to change, thereby making more strict the precise rules with regard to obtaining Patents. Have you any opinion with regard to that point?—If the Law Officers of the Crown had time to attend to it I should be perfectly satisfied with that tribunal. It is a question of time. I do not think that the change in the Law Officers would be substantially injurious. If the changes were very rapid they might be injurious, but taking the average of changes as they have been, I do not think that they are substantially so.

983. (*Lord Overstone*.) I presume that the business must be substantially settled by the clerks of the Law Officers of the Crown?—That is so, to some degree, I suppose; but that question I cannot answer. I presume that the judging whether the Provisional Specification is upon the face of it sufficient must be done by the Law Officers themselves.

984. (*Mr. Forster*.) And you do not think that it would be an advantage to make the Law Officer who should attend to this particular matter, a permanent legal officer instead of the Attorney-General?—You must then have a new officer entirely. You could not, with our present political system, make the Law Officers permanent.

985. That has been a suggestion which has been made, that there should be a permanent officer for that purpose?—I do not see any harm in it.

986. Nor any particular advantage?—There would be this advantage, that, assuming that there is a more stringent inquiry, which I think is desirable, the Law Officers of the Crown have not time to enter upon it, and then there must be a third person, either an officer to act by himself, or an officer to report to the Law Officers, upon the subject of his inquiry—a sort of delegate of the Law Officers—or there might be more than one; you might have one for mechanical Patents and one for chemical Patents, who would be parties to report to the Law Officer, or who might be separate and independent parties to inquire into the matter.

987. Supposing that a Special Court was established for the trying of Patents, would it not be comparatively easy to attach to such a court such an officer?—Yes; but supposing that a Court was established, there would be a difficulty whether that Court could itself be entrusted with the preliminary work, which matter perhaps I had better reserve until we come to that question.

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988. (*Lord Overstone*.) Do you not think that in proportion as you would propose to increase the efficiency of the preliminary investigation you would strengthen, *pro tanto*, the argument for entrusting that preliminary investigation to officers specially appointed for that purpose?—If the preliminary investigation be carried far, you undoubtedly must do so. I take it that the present Law Officers could not give time to anything like a strict preliminary investigation. If assistance was supplied as has been suggested, you might have a preliminary examination by the Law Officers, going further than their present examination. There has indeed been a great change in the state of things before and subsequent to 1852. Before 1852 the general, and as far as I am aware, the universal practice was never to look at the matter, but simply to grant a Patent for any title that was asked, unless there was an opposition; they had only to look at the opposition to see whether it related to the same invention or not.

989. Can you explain how it is that this duty has been entrusted to the Law Officers of the Crown, which is hardly consistent with their functions, namely, to advise the Crown upon legal questions?—My notion of the origin of the matter is this: The Crown is empowered originally by law to grant Letters Patent upon the assumption that there is an invention. The consideration (if I may use that word, although there is no legal consideration) is that a party represents to the Crown that he has a good invention of a new manufacture, the Crown says, "I cannot, in person, inquire into it, but I delegate that to my legal advisers," and upon their reporting on it, the Crown grants Letters Patent. The origin, therefore, of the matter, to my mind, is that they are advisers of the Crown as to whether Letters Patent shall be granted.

990. (*Sir H. Cairns*.) Is not there another reason, namely, that the Crown grants no Letters Patent without the advice of the Law Officers?—That would be, probably, for the same reason, namely, that the Crown consults them.

991. Is it not the fact that the Crown is supposed to grant no Letters Patent except upon the advice of the Law Officers?—I presume that it would be so. I did not know as a fact that, for instance, the Crown took the advice of the Law Officers before granting Letters Patent for nobility.

992. (*Mr. Fairbairn*.) Do you not think that it would give very great facilities to the Law Officer provided he had the assistance of a person who was sufficiently conversant with mechanics and chemistry, and do you not think that a person, combining both mechanics and chemistry, might be obtained to advise the Law Officer?—I think that it would be highly desirable to have a person connected with mechanics, and another connected with chemistry to devote their time carefully to looking over these matters; and I should rather prefer that the Law Officers should have the decision upon them, because I should be more inclined to trust their decision, from their position, than the decision of a mere mechanician or a mere chemist, who might possibly be mixed up with the rival inventors of the day.

993. (*Vice-Chancellor Wood*.) Would you have the investigation *ex parte*?—Yes, as a general rule, but I see no harm in having it public. This is what has occurred to my mind: Supposing that there was an inquiry of this sort, and that there were circumstances which presented difficulty, and it was thought desirable that a tribunal for trying Patent cases should be resorted to, the Law Officers of the Crown might very well refer any questions about which their minds were in doubt to such a tribunal.

994. (*Sir H. Cairns*.) Would there not be this difficulty about that, namely, that you would have the preliminary question whether a Patent should be granted settled by a sort of anticipatory adjudication by a tribunal which might have afterwards to try the same question between an alleged infringer and the Patentee?—There would be that

difficulty, and there would be difficulties in every plan suggested. That difficulty would, in my mind, operate so as to be an impediment and a strong obstacle to the tribunal having the general disposition of the preliminary inquiry; but I do not think that the difficulty would apply by any means so formidably if it was only exceptional cases which were submitted to that tribunal by another party. I do not think that it would be an injury. If the tribunal recommended in the negative, of course, *cadit questio*, there would be no Patent; but if they recommended in the affirmative they would only recommend upon it as a *prima facie* case, as in law where persons certify to a *prima facie* case, and the only opinion to be given would be upon the question, is there sufficient case to grant a Patent? It does not at all prejudice the matter as to a subsequent inquiry. But there are difficulties in all these matters, and we must look at the balance of them.

995. How far would you make the investigation before an officer, with the assistance which you mention, conclusive?—I would have it subject to appeal, that is to say, the negation of a patent I think should be subject to appeal.

996. Appeal to whom?—Probably the present appeal to the Lord Chancellor, or to any of the superior Judges; an appeal to a Judge at Chambers would probably be a sufficient appeal.

997. (*Mr. Fairbairn*.) Is it not quite possible that all the knowledge which is requisite both in mechanics and in chemistry might be united in one person? We very frequently find that the same person is a very fair chemist and a very good mechanic?—In the case of persons who have attended to any one branch of science, I believe that, so far from their minds being limited to it, they are likely to know more of the other branches of science than persons who have attended to none, because they are themselves so inevitably mixed up, that you could find very few men who have devoted a good deal of their lives to scientific subjects who do not know a great deal of other branches besides their own; but still there are such ramifications that I think it would be desirable to have two distinct persons.

998. (*Vice-Chancellor Wood*.) Any additional expense in the preliminary inquiry would not, in your judgment, I presume, from your former statement, be much of an objection?—I think not; I think that there would be ample means to meet it.

999. (*Sir H. Cairns*.) With regard to a preliminary inquiry, what would be your idea as to the Provisional Specification; would you publish it?—If it was a question on which it was necessary to hear evidence, or to refer to another tribunal, I would then protect the Patentee as at present, by allowing him to deposit a Provisional Specification; I would protect him for a time from the consequences of publicity, during the inquiry, as he is now protected.

1000. Of course, whether there would be opposition or not, would very much depend upon the knowledge which the public would have of the application. If the Provisional Specification were published, it might attract attention, and persons might come in who otherwise would not?—Yes.

1001. Upon what would you make that to depend?—I would have the inquiry as it is at present at first, *ex parte*; but if there was any fact in the minds of the Law Officers or of those who advised them, which made it desirable to hear evidence, I would then hear that evidence, in the meantime protecting the person against the consequences of the matter being made public.

1002. I do not quite follow what you describe as hearing evidence, do you mean inviting evidence?—I will put it in this way. Supposing, for instance, you were, as you have been, a Law Officer of the Crown, and your chemical adviser said, "My impression is that this process has been publicly used in Manchester," you might require to have your mind satisfied as to the extent of its use, or whether it had been used in Manchester. There

might be an impression that it had been used without its having been publicly used. You would require to be informed on that subject. You might do it yourself. You might have the witness before you to prove what had been done in Manchester, or you might have another tribunal if you considered it too difficult a matter to deal with yourself.

1003. It would be unlikely that either the Law Officer or his adviser, as you term him, would have a witness in his own hands to produce upon the subject. I suppose that would rarely be the case, but suppose that the Law Officer or his adviser said, "I have a strong impression, from the look of the thing and the little I know of it, that it cannot be new, but still I do not know how to prove that it is not," could he, in order to enable him to decide, advertise in some way?—I see no objection to his doing so, protecting the party.

1004. But he must advertise the Provisional Specification?—Yes, but he would protect the applicant. I think that it would have this advantage, that it would frequently prevent an extremely protracted and difficult trial at a subsequent time. There are many cases which I have seen where directly the defence is opened after a long trial the matter dies. You never can tell beforehand, because a counsel can never know even from his own brief, whether his witnesses are reliable or not; but I have known cases where as soon as the first witness is examined the case is at an end.

1005. Is it not your experience that there are a great many Patents which, by the experience which has been gained during the short interval, when the Provisional Specification is kept secret and while there is protection, are ripened into such maturity that the Final Specification comes out as the Specification of a perfectly good and valid Patent, where, if there had been litigation upon the Provisional Specification, imperfect and crude as it often is, the Patent would hardly have held water?—I do not think that you should grant a Patent at all unless a man is possessed of his invention when he files his Provisional Specification. I think that the six months allowed for making the Final Specification are simply for the greater perfection in the method of working the invention. I do not think that any portion of the invention itself should be permitted to intervene between the Provisional and the Final Specification.

1006. But is it not constantly the case that by the secrecy and protection of those months and the ability which the inventor has of making experiments in that time, in the case of a machine, for instance, it comes out a much more perfect machine than that which he described in his Provisional Specification, and yet no one would ever object that, in consequence of the improvements which it has received in the meantime, it is a different Patent from the one which has been protected?—I cannot, off-hand, call to mind any striking instance of that. No doubt the details of the manufacture are frequently improved, but the actual practice, as I have seen it (and I have had a great deal to do with such subjects), is that the Patentee leaves it very much to the last moment, and that there is not a great deal of information got between the Provisional and the Final Specification. Practically speaking, the Final Specification comes to be settled at the last moment, and I cannot call to mind, off-hand, any case where there has been any substantial improvement, as to the invention itself, between the two Specifications.

1007. But is not the theory this, namely that the Patentee may, by making experiments, which he would be afraid to make, until he had the protection, lest the matter should become public, and by reflection and experience finish, and perfect, and add to the invention?—The law requires him in his Provisional Specification to state the nature of his invention, and in his Final Specification to state the nature of his invention and the mode of performing it; and the six months are given, not for any purpose of enabling him

to state the nature of his invention, but to enable him the better to state the means of performing it.

1008. But suppose that the invention is a mere means of performance itself?—It must always involve an idea, or it is no invention. For instance, if it is simply the better fabrication of a machine, it is no invention. Mr. Whitworth could not get a Patent for making screws better than any other person.

1009. (*Lord Overstone*.) You mean that the Preliminary Specification must contain in reality the machine, although it may be in a very crude and clumsy form, hardly perhaps formed, but still a machine in principle?—Yes, it must contain what purports to be the invention of the person who has made it. He ought not to have Letters Patent unless he has made an invention, and made his invention at the time of the Provisional Specification, and he is then given six months for enabling him to carry it out, and one of the objects of that and of the Provisional Specification, is, that if in the operation during those six months his invention should be discovered, he may go on if he likes openly making his improvements, and it has been a frequent question with reference to different inventions whether it is better policy for a Patentee after his Provisional Specification to publish his invention or to keep it secret.

1010. (*Sir H. Cairns*.) Sometimes he files a Complete Specification at once?—He may do so by law, but it is not very often done in practice. I have stated that, although the leaning of my opinion is in favour of preliminary examination, still that opinion has been a good deal shaken by what I have heard of its inefficiency in America; but the way in which it impresses me is this, assuming that which I believe to be the case, and in which I entirely agree with Mr. Platt, namely, that the number of frivolous inventions and of old inventions patented is a real practical inconvenience to the manufacturer; that inconvenience should be remedied if it can be remedied. The one method is a preliminary investigation, more stringent than it is at present. There may be two others, though I cannot see my way clearly to one of them. One of these had occurred to my mind before Mr. Scott Russell mentioned it, and I have often discussed it, that is to say, allowing the Patent to go with no more examination than at present for the first three years, but obliging the Patentee after that period to come before, say, either the Law Officers, or a Patent tribunal, or an assistant of the Law Officers, or some competent body or person, and then making it incumbent upon him to show cause why his Patent should be prolonged; something analogous to the present system of the Judicial Committee of the Privy Council, but applied to the Patent at an earlier stage. It strikes me that there is a good deal in what Mr. Scott Russell said upon that subject, it would have not quite the same advantage as a preliminary investigation, if you could get a satisfactory preliminary investigation, because it would let the public be exposed to the Patent for three years and it would lure the Patentee on for three years, and therefore it would not be quite so satisfactory to either party as suitable examination in an early stage, but it would prevent a very considerable amount of complaint, which would be a very serious objection to a preliminary investigation.

1011. I suppose that the preliminary investigation of which you have spoken could only be an investigation into novelty?—Into novelty and also into triviality.

1012. But could not *ex necessitate* be an investigation into the question which very often arises, namely, whether the Invention and the mode of working it has been properly specified?—Just so.

1013. Supposing that you had a mode of taking a rule to show cause why the Patent should not be set aside, which might be obtained at any moment after the Patent was completely specified, so that it might be obtained at the end of six months, would not there be an advantage in that in this respect, that you could upon that rule embrace all

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questions which would arise upon the Patent?—Yes, that was one of the alternatives to which I was alluding.

1014. Would not there be this advantage in that the moment the invention became public, and therefore the moment the public would be galled by it you would have an investigation which would, if it were open, more completely reach every question which could arise upon the Patent?—I have thought a good deal of that, and, undoubtedly, if it could be practically worked, it might be a very beneficial thing, but I cannot see my way to it practically, and for these reasons, an application to repeal a Patent must be at the instance of an opposing party. We will assume a Patent to be granted, and that a twelve-month afterwards some one wishes to repeal it, you might, undoubtedly, to some extent, simplify the present proceeding of Scire facias and make the formal matter more inexpensive, but I do not see how you could simplify the contest. If the Patentee himself was a wealthy man and a large manufacturer, having 20, 30, or 40 Patents in his possession, he would struggle to the utmost to maintain his Patent, he would retain the ablest advocates and the ablest scientific witnesses, and there would be no chance of repealing the Patent unless the person opposing it had something like an equality of purse to go into the field. You never could get the battle fought if one side was wealthy, without the opposite party having something like equal powers to oppose him.

1015. Would not that observation apply to the preliminary investigation unless the preliminary investigation was one-sided?—I think not, because I should never expect any tribunal to reject a Patent because it was a doubtful or contestable matter. I should get rid of those things only of which the Patentee had given no fair *prima facie* of evidence sufficient novelty or importance.

1016. You mean Patents which would go to the wall upon the slightest examination?—Yes; I take it that theoretically, though not practically, at present the onus lies upon the Patentee when he asks for Letters Patent, to satisfy the Crown and advisers of the Crown that he has *prima facie* ground for asking what he does.

1017. It is impossible to prove a negative; he cannot prove that his invention is new; he cannot import a *prima facie* case of novelty till he hears what is said against him; but if the preliminary investigation which you suggest were of such a character that you would not expect the tribunal to reject a Patent unless upon a moderate examination it was clearly bad, Patents which were arguable would survive?—Yes.

1018. But in the case of a rule to show cause where you apprehend so much expense from the necessity of calling engineers and scientific witnesses, do you think that great expense would be incurred with regard to Patents which would not bear investigation, do you not think that it would be difficult in those cases to create a great expense in investigation?—You would very likely not have a rule to show cause in those cases; you would have this: a tradesman obtains a great stock of new shaped goods for the season; he has a letter from a Patentee saying, "You are infringing my Patent;" I do not believe that the tradesman would go to the expense of litigation with the Patentee, and for this reason, it is the Patentee's interest to give a very large sum of money to support his Patent; his Patent, although for a very trivial thing, may, taking the vast extent of sale, be a very lucrative affair, and therefore it is worth his while to lay out a large sum of money to support his Patent; it is not worth the while of the opponent, because he has only a little stock which affects him; the Patentee has his whole interest consolidated in the Patent; all those who might oppose the Patent are a scattered body, namely, the public generally, not one of whom has any strong interest in opposing the Patent, and I believe that that has been very much worked by Patentees, particularly in a small and

comparatively frivolous and perhaps an all but useless invention; the public is a scattered body not one of whom has sufficient interest to meet with equal force the Patentee, and that is one of the difficulties which I should like to see my way to remedying.

1019. (Sir W. Erle.) Does not your remark mean, that the attack upon the Patent would be in proportion to its importance and its value; that the insignificant Patents would be left to themselves, and that in the case of a valuable Patent a great interest would be brought to bear?—There are two sorts of interest in Patents. A Patent may be an extremely valuable invention; for instance, the manufacture of Aluminium is of the utmost importance, but it was of very little trade value for a long time. When Aluminium was first made what I may call a practical manufacture, it was of no value to any tradesman at all, it would take probably 10 or 20 years before such a thing could have any approach to practical value. On the other hand, the most frivolous Patent—the turn of a lady's hat, the cutting of a shirt frill, or a new boot-heel—may be of very considerable value, from the number of boot makers all over the country who would have to order it, every one of whom would pay an extremely trifling licence duty, and therefore the Patent would be a very good Patent to the Patentee. In my judgment those are not good subjects for Patents, and there the opponents would have no interest equivalent to that of the Patentee to meet him.

1020. (Mr. Fairbairn.) If there were a preliminary examination, all applications for Patents which would not stand the preliminary examination would be lost?—The invention would not be lost. Of course the foundation of my opinion is, that those inventions would inevitably come without Letters Patent. I am speaking of classes of inventions which, if they may be called inventions at all, would inevitably follow the usual course of trade and the fair scope which every man should have for modifying or improving his commodity. I would not shut out the public from those things.

1021. (Lord Overstone.) But are not those the very class of inventions upon which the principle of Patent stimulus is calculated to act?—I think not. I think that those inventions would inevitably follow in the course of human affairs. I think that the mere question of supply and demand would give us those inventions—that it would not give us the great inventions, but would give us the small ones.

1022. Do you think that the stimulus which is supposed to constitute the real ground for granting a Patent, acts very powerfully upon the remaining class of inventions?—I think not. I may cite in aid of my opinion those things which are not patented—the new fashions of the day. We have lately had certainly the registration of designs, which is a much more modified and a smaller form of Patent, in one sense; but I do not find that there is any want of those fashions being promoted by the particular designers, who are not at all protected.

1023. The object of my question was to draw out your opinion as to the efficiency of Patent privileges in stimulating inventions upon those higher objects which would, according to your view, still remain the subject of Patent regulations?—I believe that the great value of Letters Patent with respect to that class of inventions is this: I take it that the main object of Letters Patent is to encourage invention; if, therefore, you would get the same inventions as we now get without Letters Patent, I would have no Letters Patent at all. I believe that, with respect to the minor class of inventions, you would get them; but I believe that with respect to the major class you would not, and for this reason—that although you might have the same inventive faculty at work, you would have such an amount of trade opposition, that unless the person had some fulcrum to support him and enable him to incur expense, either by himself or by the aid of some other capitalist, the invention would be actually smothered. Supposing there is a noxious trade which devastates the country round it,

it is the interest of all the proprietors of the furnaces belonging to that trade to keep up its noxious character. Strange as it may appear it really is so, and for this reason—that they have, by devastating the neighbourhood around them, obtained a monopoly of place. Supposing a party to invent a means of getting rid of that noxious character, he would have the greatest possible difficulty in getting it fairly tried and into the market, and he might ruin himself in attempting to do so, if he had no Letters Patent. He would have the opposition of powerful bodies, not ostensibly, but we know that interest will prevail in these matters. But if he had a Patent he probably would get somebody, upon the prospect of receiving certain assistance from the Patent, to try it with new plant and new machinery, which none of the old works would do, because they must have fresh machinery; but if the inventor had Letters Patent he would get some person to undertake the matter for him, who would say, “I can establish chemical works in my neighbourhood and I will take it up; if I succeed, I shall have a licence duty from everybody else who sets up this trade;” and to my mind that is the great argument for Letters Patent—it is to enable a party to overcome trade interests. Even if you put noxious trades out of the question, the mere difficulty and the enormous expense of supplying plant and other things for new inventions are very great, independently of the natural sluggishness which all persons get into when they have worked a thing in a certain way; you would very rarely get the invention adopted and get it really forced upon the public. Everything which comes into that class (and I would not curtail it) is, I think, a highly beneficial object of Patent Law.

1024. (*Mr. Forster.*) But you seem to me to go very much further than you have stated; for instance, as regards the invention of the combing machine, your idea that that would have been prevented by an opposition of the trade would hardly apply, because it would be an immediate and very great boon to any one manufacturer who took it up?—Yes.

1025. Would it be your opinion that there would be no advantage in such a Patent as that?—I think that there would be advantage. I would not restrict Patents to such cases as I have given as illustrations. I think that, even in the cases you mention, there is a great deal of undue expense before the invention can be brought to bear. In that case it is extremely likely that if there had been no Letters Patent there would have been a great deal of trade opposition to encounter. I would take Mr. Heilman, who was not concerned in the *Lister v. Leather* case (of which I will not speak as I was counsel in it,) but who had made great strides in the invention; he would have encountered great opposition.

1026. Still an immediate boon would have been very large to any manufacturer who had taken it?—Yes, if he would take it; the invention of Mr. Heilman was a very meritorious invention, and one thoroughly deserving of Letters Patent, in my opinion, in every way.

1027. (*Vice-Chancellor Wood.*) Do you agree with Mr. Platt upon the desirableness of excluding Patents for improvements in mechanical inventions?—No, because I think that the greater number of Patents are for improvements; it is a question of degree.

1028. (*Chairman.*) Is not the question of the importance of a Patent also entirely a question of degree?—It is entirely a question of degree, but you may come to a degree so much below the scale that a Patent may, I think, be reasonably rejected; at present it is not so. As a simile, the lights in the spectrum may be said to be questions of degree, they all, as commonly seen, blend into each other; but supposing the green tint to represent the medium, you might reject the violet without any hesitation, but where one is verging upon the other you would hesitate.

1029. Looking at the practical difficulty of the question, although none of us would have any difficulty in pointing to certain inventions which would

be entitled to a Patent, and to other inventions which were so trivial that they would not be entitled to a Patent, if any exclusion on the ground of triviality were allowed, still would not the great bulk of the whole, say perhaps seven-eighths of the whole, lie so far between those two extremes as to create an immense practical difficulty in deciding upon them?—I do not think so; I think that there would be an intermediate line where it would be very difficult to decide; but I think that a very large number of inventions would be so clearly below the line that they might be safely rejected. But I am not at all suggesting a new matter; it is the present law and practice of this country, and we have heard in evidence, in answer to questions by the Attorney-General, that the Law Officers of the Crown not only look to the Provisional Specification, to see whether, *ex facie*, it discloses an invention, but that they do occasionally look to the question of novelty. I am only for extending that principle to a certain degree; that degree, of course, must be a question of judgment and discretion; but I think it better that the judgment and discretion should be exercised in the first instance, than that one should be inundated with a great number of things for which no person fairly conversant with the subject would say that a Patent should be granted.

1030. (*Sir H. Cairns.*) You do not think that at present the Law Officer says, “This is an invention, but it is a trivial invention, and therefore I will not grant a Patent for it”?—No; he never rejects it, as far as I am aware, on account of its triviality.

1031. (*Sir W. Erle.*) Have you tried the method of induction, that is to say, taking the last 200 Patents which have been granted, in order to see how many could be rejected as trivial, *ex facie*?—No; I have not had time since I was invited to give evidence to look at any statistics upon the subject. I am only speaking from being in the habit of seeing these Patents, and occasionally reading the repertory of Patent inventions and those things. Of course many of them may be mere matters of advertisement, and there may be falsehood. One sees a number of things which are inscribed “Patent” so-and-so; a great many of them are not Patents, but a great many of them are.

1032. (*Mr. Fairbairn.*) Might not some danger arise from a very close and rigid preliminary investigation, namely, that you might throw out a number of Patents which might be valuable and useful to the public?—I do not think that there would be much of that; such a thing might occasionally occur, but in all these cases we must look to a balance of evils. In my view you would not reject a problematical discovery, but even assuming the discovery to be successful, you would ask what result does it produce? The result is commonly obvious at the time, and if that result is of a trivial nature I would reject the application.

1033. (*Sir H. Cairns.*) But according to your view you secure the public thoroughly because you take possession of the Specification, and I do not suppose that you mean that it should be destroyed if it were rejected; you take possession of the Specification at once, and the public have the benefit of it if you refuse a Patent for it?—You do not necessarily publish the Specification, you may return it to the inventor and let him keep it private.

1034. I am speaking of your more extended investigation?—We have at present, I think I may say, an admitted difficulty; the question is, what are the means of getting rid of it? I am far from saying that the means do not in themselves present difficulties, the question is whether the balance of difficulties is not more one way or the other.

1035. (*Lord Overstone.*) Do you think that you could set forth clearly, in words, the instruction which you would give to the Law Officers of the Crown, with a view of establishing a more stringent investigation?—I do not know that I could do so more than I have expressed; it must depend upon their judgment. If

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upon the Law Officers referring the matter to Mr. Woodcroft, he brought him a Patent for the same thing, showing it to be old, and if, moreover, it was of a trivial nature, the Law Officer should reject it.

1036. (*Sir H. Cairns.*) With regard to the first of those two points, I suppose it is a question of fact which can be decided; but with regard to the second, would it not vary very much with the opinion of the Law Officers for the time being?—To some extent; but the question is, what right are you taking away by it? I quite grant that after the working of the present system you might have great complaint, and it may be that the mere question of the popular outcry which the change would produce is a sufficiently formidable objection to it; but assuming for a moment that that is not so, then the question is this, if I were taking away the right of any British subject, I should most decidedly be strongly opposed to it, but I am not doing so; he comes to ask me a favour, I am not bound to grant him that favour.

1037. The Government of the country announces that it will grant protection to all authors of new inventions, then there comes a man who hands in what must be admitted to be an invention, and you say, "That is an invention, no doubt, but it is a trivial one?"—Is not that rather an error of practice than the state of the law? What the law says is, that the Crown shall have the right of granting Letters Patent to the first and true inventor of any manner of new manufacture; it does not say that the Crown *shall* grant them.

1038. In olden times it was as a matter of course a favour in the Crown, and to a certain extent it is so now; but do you think that constitutionally the Crown could set up the right of granting to A and not to B?—I think so.

1039. (*Mr. Hindmarch.*) Was it not laid down by Lord Eldon and several older authorities that every Patent is to be construed as a bargain between the public on the one hand and the inventor on the other?—Just so; but then parties are not bound to contract—the essence of a bargain involves volition on both sides. What I propose seems to me to be a thing which could be worked; the greatest danger which I see in it is overcoming the strong feeling against it. From the practice of granting Letters Patent for everything the public have the conception that it is a man's right.

1040. (*Lord Overstone.*) The difficulty presses upon me of your setting forth your distinction in words. You have illustrated your meaning first by pointing out the discovery of aluminium, and saying that it is a discovery of such importance and value that it ought to have a Patent. You have quoted some other cases such as an improvement in the heels of boots, and the new cutting of a shirt, which are what you call of a trivial character, and which ought to have no Patent privileges given to them; but could you set forth in words that distinction in such a form that it could be taken and acted upon as Law?—I could not, because it is one of those things which admit of no form of words, like half the things which are acted upon in law. We have no form of words in the trying of Patents at present—novelty and infringement and invention are all questions of fine degree, which must be decided; the knot must be cut by the jury in the best way it can; and if you have a tribunal without a jury the knot must be cut by that tribunal. No form of words can tell you what invention is; whether there is invention in a thing or not, it cannot be reduced to a form of words.

1041. Assuming that this Commission adopted your view, and wished to carry it out, in what way could they give expression to it?—Simply that the Law Officers of the Crown should exercise their discretion in granting Letters Patent. I do not know any other form of words.

1042. (*Mr. Attorney-General.*) Might you not refer to what you could certainly use words to describe, namely, trivial inventions; might you not say that in the exercise of the functions of the Law Officers they

should withhold their approbation of the progress of Letters Patent, applicable to such inventions as in their judgment should be trivial?—I think that you might go as far as that, and you might add, such as should be clearly old.

1043. (*Sir H. Cairns.*) Would you assume that an invention might be new, and might be useful, and yet might be trivial?—Yes. I would give one of the illustrations that I gave before, I would take the matter of an existing Patent. A certain cloth was sold, such as you see in the bodices of ladies' dresses, with stripes down and a sort of frill between, and a Patent was taken out for simply taking this identical cloth, cutting it into two halves, and hemming it into two frills. We should think it a very great hardship if the seamstresses employed at our houses were not to be allowed to make two gentlemen's shirt frills out of that piece of cloth; and yet I know no reason why it should not be a good Patent.

1044. (*Lord Overstone.*) There is no doubt that you may take a case of triviality of the most indisputable character, and you may introduce cases from that up to cases of unquestionable merit and deserving the Patent right in the opinion of yourself, or even of one entertaining still more stringent views than you do; but the difficulty which I feel is where the Law Officers of the Crown are to draw their line; how are they to be guided in the exercise of their judgment as to the triviality?—Only by their own discretion. I know of no other mode—just as at present a jury are guided by their own discretion as to the questions of invention, novelty, and infringement, and all those points which are usually submitted to them. There is no form of words by which those things can be reduced to an absolute line; it is one of those mixed matters where you cannot determine the line of demarcation.

1045. (*Mr. Attorney-General.*) You have mentioned various questions which are at present decided by juries, such as novelty and utility?—Yes; there are perhaps three main questions which now come generally to be decided by juries, namely, novelty, invention (that is to say whether the article is a mere application, or whether there is invention in it), and infringement.

1046. These other matters to which you have referred are all either entirely or in great part capable of being established by evidence as matters of fact, but have you considered, or has it occurred to your mind whether the question of triviality is or is not a question with reference to which evidence might be brought usefully to bear?—Frequently it might, I think; frequently it would not be required. To take some of the extreme cases which I have cited I should hardly think that any evidence need be adduced in such cases as these, but there might be cases where evidence might be usefully brought to bear.

1047. There might be cases in your judgment, the question being triviality or not, in which the evidence of persons conversant with the range of manufacture to which the particular matter referred might be brought to bear?—Yes.

1048. In your opinion how would the judgment of a witness, who should express his opinion that a particular invention was trivial, be guided?—He would state the consequences which, in his judgment, would be likely to result from it. He would say, "This invention would produce an important change in such and such a trade, and I will show you what change;" or he would say, "It is quite impossible that this invention can produce any substantial change, because of the multiplicity of things which are so very nearly the same." The question is what the inventions come to. I have a strong impression upon the point, it is what in another stage we really come to in all these trials, and I see no reason why, in certain classes of things, the matter might not be decided at first as well as at last. All the questions to be decided are questions of degree, and questions which can only be decided by cutting the knot and

saying, "In our judgment this is on one side of the "line and that is on the other."

1049. In your judgment should the question of triviality apply to both the measure of utility and the measure of invention?—Yes, I would leave it perfectly free.

1050. So that if you had novelty with some utility, but the minimum of novelty and the minimum of utility, it would be very much the same thing as you consider triviality?—Yes.

1051. (*Mr. Fairbairn.*) It appears to me, according to your statement, that the whole of the investigation would resolve itself into the judgment of the party investigating?—It would.

1052. (*Lord Overstone.*) You think that the question of triviality, as regards the granting or the withholding of Patent Rights hanging upon the decision, may be safely left to the Law Officers of the Crown?—I think quite so, subject at all events to an appeal.

1053. And you think that it would work satisfactorily to the public?—I think that it would, if you could once get over the difficulty which there would be in passing to a new system. I see strongly and very fully the danger of that. We have so worked upon the present system, which I do not take to be the pure law of England, of allowing everybody to claim *quasi* as of right Letters Patent, that I think there would be a great outcry if a stricter system was to be introduced, and the only way in which such a system could be worked judiciously would be, I think, by cautiously working it, and only cutting off in the first instance those inventions which were extravagantly trivial. But by degrees that might be extended, and both inventors and the public would be benefited by it, the public by not being trammelled by a number of small inventions, and the inventors by not being led after an ignis fatuus in a great many instances.

1054. (*Mr. Fairbairn.*) You think that the Law Officer, the Attorney-General, should have some assistant, in order to conduct a preliminary investigation, and search more closely into the nature of the invention, and to see whether a Patent should be granted for it or not?—I think he should. I think that he could hardly do it without; he could hardly substantially extend the present investigation without assistance beyond that assistance which he now has. He has a right by the present statute to call in assistance, but he would require more permanent assistance.

1055. He would have a permanent officer?—Yes; I should think two at least; one in the department of Chemistry, and another in the Department of Mechanics.

1056. (*Chairman.*) In the event of the principle of preliminary inquiry not being approved by the Commission, do other alternatives suggest themselves?—There are two other modes which have been suggested, the one is obliging the Patentee at expiration of three or seven years to make out a case for the continuation of his Patent, very much although in a more summary way as is at present done, before the Judicial Committee of the Privy Council in prolonging a Patent. At present the party has to make out a case, and in a very great number of cases, and I may say the majority of cases, before the Judicial Committee of the Privy Council it is an *ex parte* case; it is not opposed, and yet the greater number of those applications are refused. The Patentee comes to show the Judicial Committee of the Privy Council why his Patent should be prolonged. Now if there were no preliminary examination, it seems to me that it would be a desirable thing, either at three or at seven years, that the Patentee should come before either the Law Officers or a tribunal, supposing there was one appointed, to show cause why his Patent is deserving of prolongation. I think that, in addition to those Patents which drop naturally, it would possibly cut off many Patents. The trade having had large experience of the Patent, opponents could come and be heard as to the question affecting it, and the matter might be

decided, as it seems to me, at less expense than by a trial; because the present bearing before the Judicial Committee of the Privy Council is *cateris paribus* a much less expensive form of inquiry than an absolute trial of Letters Patent.

1057. (*Mr. Fairbairn.*) According to the existing law does the Patent date from the last payment at the end of seven years?—No, it dates from the filing of the provisional Specification.

1058. Then half of the period of the Patent has expired by the time of the last payment?—Yes.

1059. There appears to me to be some difficulty there where a man may have a Patent and may be experimenting upon it for the first three years, and probably may experiment upon it for the next four, before he gets it perfect, and then he has only seven years afterwards?—He cannot alter his Patent by the present law, the Patent must be complete at the filing of the final Specification, after that he must abide by it for good or evil; he may give the public gratuitously the benefit of any amendment, but he cannot alter his Patent. If he wishes to get anything additional to it he must take out fresh Letters Patent. The other alternative to which I was going to allude is the question of a more summary repealing of Patents. I think that something might be done in that respect. I think that the present trial by *scire facias* is undoubtedly a very cumbrous and expensive proceeding, but I do not think that you could avoid great expense in a repealing system, though you might considerably lessen the expense, and certainly failing other things I should much prefer its being done to nothing being done. There is a very great difficulty which occurs in actions of *scire facias*, and that is a question which may seem at first sight to be of little importance, but practically it is of very great importance, namely, having the first and last word. Previously to 1852 the person who wished to repeal a Patent, in fact, though it was nominally the Crown, had to begin, that is to say, he had to open his case against the Patent, the Patentee then answered it, and then the promoter of the *scire facias* seeking to repeal the Patent had the last word, and, previously to 1852, very few, if any, Patents ever escaped the effect of a *scire facias*. If people could find the funds and means to go into Court well prepared to support an action of *scire facias* it was generally, if not universally, successful. I believe that there were only one or two exceptions. That mode of proceeding was altered by the Patent Law of 1852, and the onus was thrown the other way. The Patentee had the right to begin and he had the right to reply, and since that period, I believe, just the reverse thing has taken place, very few Patents having been repealed, and, generally speaking, the Patentee has been victorious.

1060. (*Vice-Chancellor Wood.*) It depends a good deal upon whether you have a jury or not?—It undoubtedly does; but there is this, and I do not say that it should not be so, the Patentee has a better chance in *scire facias* now than he has in an action, because he is supposed to be attacked by the Crown, and therefore the sympathies are with the Patentee, and the common argument is, after all, if you do not repeal the Patent it will do no harm. If the Patent is a bad one the Patentee will not be able to recover in any action for the infringement of it; that argument is generally found to be successful, it is said, we will not finally cut him off from all remedy.

1061. (*Mr. Attorney-General.*) You have alluded to the inconvenience and the costliness of the proceeding by *scire facias*, is there any inconvenience now in the proceeding by *scire facias*?—I presume that there is, because I believe that it is very seldom adopted. The proceeding is a costly one; at least, security for costs must be given, if I recollect rightly, by the person applying for the *scire facias*.

1062. And he must satisfy the Attorney-General that he has at least a *prima facie* case?—Yes.

1063. But there is no great expense in that?—He is obliged to be a person who can give security for

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costs, and I believe that the amount of security is generally heavy.

1064. 1,000*l.*?—Yes.

1065. But the real cost of all these investigations, whether in an action or under the form of a writ of *scire facias*, I think I am right in saying, is the trial?—Undoubtedly.

1066. The presenting the case in Court, and obtaining the witnesses?—Yes; and there the practical point is, that it is the Patentee's interest, and it is worth his while to lay out a very large sum of money, and it is seldom worth the while of a person opposing the patent to do so; he has not the same undivided and individual interest in the matter.

1067. Would you make the power to challenge a Patent as it is now challenged, under the form of *scire facias*, a matter of right on the part of any person coming forward, or would you retain the discretion of the Attorney-General as to whether the case ought to go forward or not?—I have not much considered that question. I do not see very great harm in letting any member of the public attack a Patent if he likes, but my mind has not been much devoted to a consideration of the value of the law officers exercising a discretion upon that matter, and therefore I am not quite prepared to answer that question.

1068. (*Chairman.*) Have you at all considered the question, whether any change is desirable in the tribunal appointed to try Patent cases when contested?—I think that now it has almost become a matter of necessity. I had at one time great doubts about it, but things have arrived at a dead lock. The Courts now really cannot try these cases. We have at these very sittings three Patent cases made remanets because they cannot be tried; they interfere too much with other business. We have at this moment going on a Patent trial which is now in its fourth day. We have had within I think a week another trial of a Patent, which lasted seven, and a third which lasted five days. During the time that these Patent cases have been going on there have been heavy Patent arbitrations going on, two of which I can speak to myself; one, I think, lasted 17 days, and the other, which involved a very simple issue, lasted six or seven days; those arbitrations went on contemporaneously, and the cases were obliged to be tried by arbitration because the Courts could not try them, it would have occupied too much public time. While these cases have been going on several Patent cases have been also ready for argument in banco, and one has been postponed in consequence of the counsel on both sides retained to argue it being engaged in another Patent case. Yesterday, for instance, there were in the paper three Patent cases, one for trial and two for argument; and speaking with reference only to the last fortnight or three weeks, if every judge at Westminster who was sitting at *Nisi Prius* had been employed in trying the Patent cases alone, the time would not have sufficed for it, to say nothing of work at Judges' Chambers in settling particulars of breaches, notices of objections, &c.

1069. (*Lord Overstone.*) Do you say that trial by arbitration occupies as much time as trial before the court?—Decidedly a longer time.

1070. Then do you think that there is any possibility of constructing a tribunal which shall obviate that?—Decidedly, for this reason, the evils of an arbitration are these: the arbitrator has not the power and authority of a judge, he is generally a counsel much occupied with other business; he is therefore obliged necessarily to postpone the arbitration to his court business; it is the practical rule I may say, that arbitrations are not to interfere with court business, or court business could not go on. Whenever, therefore, either the arbitrator or any of the counsel engaged have business in the courts (and they never can tell the moment when it may arise) they break off from the arbitration and the arbitration is adjourned, it may be for two or three hours, or it may

be for weeks, depending upon circumstances. The consequence is that the arbitration depends upon the occupations of the arbitrator and the counsel engaged on each side. Frequently in Patent cases now there are two counsel on each side besides the arbitrator.

1071. When you say that an arbitration occupies as much time as a trial in court you do not mean that it occupies an equal number of hours?—It occupies more, for another reason; it occupies time in spreading over time for the reason which I have stated; but there is another very important matter in arbitrations, and which is not confined to Patent cases. If, for instance, a witness whom A has called has given important and damaging evidence against B, the antagonist, the case is not concluded; it does not go on as in court, and exhaust the materials there, but next week when the parties again meet, in all probability a fresh witness will be ready to answer the difficulties which have occurred with the previous witness. These adjournments are of a most fatal nature, because between each of them you have a reconsideration of the whole case by the parties interested each in opposing the other as strongly as they can, and the consequence is that without the authority which is generally exercised by a good arbitrator the case is almost interminable.

1072. Supposing that an arbitrator sat continuously as the court does, do you think that an arbitration would be shorter than a trial in court?—If the arbitrator sat continuously in public, and had the same legal and moral power, it would be very much the same thing as the court.

1073. Do you think that it would be the same thing, to the extent of being as protracted?—I think that it would be shorter, for this reason, if you assume that particular classes of cases, such as Patent cases, are referred to a special tribunal, a great many of the ordinary manoeuvres would be drifted off; it would be found that it was of no use trying those things before the tribunal, which can always be tried, and are tried *ad nauseam*, with a fresh jury, because it is not as if the same jury tried Patent cases. Those manoeuvres would never be attempted before the new tribunal.

1074. (*Mr. Forster.*) I suppose that the adjournments which you speak of in arbitrations are generally such that the witnesses are still obliged to remain?—If they are adjournments for a short time the witnesses remain.

1075. Then I suppose I am to understand from what you state that a trial by arbitration is upon the whole more expensive than a trial by the court?—Very decidedly so.

1076. (*Mr. Fairbairn.*) That is a very strong argument in favour of a separate and distinct tribunal for trying Patent cases?—Whatever my opinion might have been, my impression is now that it is an absolute necessity.

1077. (*Vice-Chancellor Wood.*) What is your impression as to the assistance of a jury or not?—I have always had a very strong feeling in favour of trial by jury, but I think that it hardly suits Patent cases, upon the whole. The advantages of a jury are very great; it prevents the fixity of character of mind which exists in a single judge, or in a judicial tribunal; however anxious to do right they probably will have certain views of their own; in other words it is one person or one tribunal. The great advantage of a jury, to my mind, is that it is a constantly fluctuating tribunal, consisting of a number of men each of whom is devoting his individual mind to the particular question. The scheme has been proposed of having a smaller jury of selected men, say a jury of five selected from a panel of skilled men; that was a scheme which was suggested by a committee of the British Association and Social Science Society.

1078. Would it be easy to find skilled men wholly free from bias in Patent cases?—It would be extremely difficult.

1079. (*Mr. Forster.*) If power to challenge were given to each side, would not that difficulty be re-

moved to a great extent?—The question is, whether you can have a sufficiently large panel for that. If you can, that is a valuable suggestion. If you could have 30 or 40 skilled men reduced by challenge to five, and could let them decide the fact, charged by the Judge, I am far from saying that it would not be an efficient tribunal.

1080. Do you suppose that such a body as that, selected out of a panel by challenging, would, or would not, be better than a jury of permanent assessors?—I have some difficulty in answering a question which must depend so much upon the working. I think that I should prefer a jury selected in that way to permanent assessors.

1081. Would there be a difficulty in obtaining permanent assessors who would have the amount of knowledge of inventions which would give confidence?—I think that there would be a good deal of difficulty, and for this reason: the gentlemen who would make valuable permanent assessors, engineers or chemists in great practice, would require to be very highly paid, in fact to have practically judicial salaries; you must give them sufficient salaries to enable them to give up their profession, and moreover you must select that tribunal from men who have been a great deal experienced in Patents. You would not take some of our eminent scientific men who have not been concerned in these matters as assessors, because, however great may be their knowledge of science, you require special knowledge for the practical working of these things. You would, therefore, require to have a fixed tribunal, and then you get men who from their daily habits have of course been a great deal mixed up with persons who come before the court as litigants. I do not, however, think that that would affect them if they were removed from that sphere and made permanent assessors.

1082. (*Vice-Chancellor Wood.*) Would you, in any tribunal, give the Judge, as distinguished from the parties, the option of calling in the aid of a jury?—I should be inclined to do so; I would not give that option to the parties.

1083. Are there not occasionally simple matters of fact, on the question of novelty, for instance, not materially connected with scientific evidence, but merely as to actual user?—There are a great number of matters of fact which the judge could dispose of with great satisfaction, but there are questions on which, for public purposes, it might be desirable to have a jury, but I would not make it at the option of the parties.

1084. (*Chairman.*) Do you think it better that a Court such as you suggest should be altogether separate and special, or that Judges should sit there taken from any of the other courts?—My impression is that it would be better to make it separate and special. There are objections, undoubtedly, to a special tribunal, but I think that it would be attended with the greatest possible inconvenience, and that many of the advantages would be entirely lost, if you had a judge from the other courts. You would not, for instance, have the shortening of the proceedings to which I have adverted. You would not have the special knowledge which is now becoming almost an essential in these cases. It is a peculiar class of business, separate almost entirely from other business.

1085. (*Mr. Attorney-General.*) Would you refer purely legal questions arising in the course of the litigation to this tribunal?—I see no reason why it should not be so.

1086. In the first instance?—In the first instance. The assessors, if there were assessors, would of course have nothing to do with the legal question.

1087. Probably you would make the appeal from that tribunal in the same stages as the appeal is now from the ordinary Courts, namely, to the Exchequer Chamber and the House of Lords?—That might be done, or it might be a matter of serious consideration whether it would not be better to give the appeal to the Judicial Committee of the Privy Council.

1088. Upon legal questions?—Upon legal questions,

because the Exchequer Chamber is at present very much occupied.

1089. If you sent the parties to the Privy Council they could not go to the House of Lords?—You might give them an appeal to the House of Lords besides, but I think that at present there is a little too much appellate jurisdiction.

1090. But at present that is the Court of final appeal?—Yes. There is one other suggestion which might be made upon the question of tribunal, which is neither to have a jury nor to have permanent assessors, but to have a person selected by each party for each particular case to sit with the Judge, and with whom he might discuss the matter afterwards. There is a good deal to be said in recommendation of that.

1091. (*Vice-Chancellor Wood.*) You mean persons chosen for the moment?—Chosen for the moment, and chosen to represent the parties; and a Judge would be a very inefficient man if, having heard the whole evidence, he retired with an engineer or chemist representing A., one party, on the one hand, and another representing B. on the other, and discussed the matter with them, and could not come to a right conclusion.

1092. (*Chairman.*) That in fact is only allowing each party to choose his assessor?—Yes; those assessors would not be sworn witnesses, but they would assist the Judge afterwards upon any question of difficulty which might present itself.

1093. (*Mr. Forster.*) You would not allow those assessors to be paid by the opposing parties?—No; I would provide for the expense of those assessors if it were made a permanent system.

1094. (*Vice-Chancellor Wood.*) Or there might be the power which the Court of Chancery now possesses of the Court calling in its own assessors, might there not?—Yes, or there might be both. The Court having heard these parties on each side might say, "I will call in a third person and let him assist me."

It having been proposed that my examination should be resumed on a future occasion, I think it better, as I have nearly gone through the questions, not to encroach on the time of the Commissioners for another meeting, but with their permission to add a postscript to my evidence.

Before quitting the subject of tribunal I would observe that, as some persons think there would not be sufficient business to occupy such tribunal (though I do not myself think so, if jurisdiction in equity and prolongation be included), the judges might have power to refer other actions involving scientific questions to such tribunal. There are, for instance, many cases besides Patent actions to properly understand which requires considerable scientific acquirement; actions or indictments for nuisance, now frequently referred to an arbitrator either to award finally upon the issue, or to direct what should be done to remedy the nuisance and yet, if possible, to preserve the trade. Actions upon engineering contracts, or contracts for sale of chemical products and many others, depend frequently upon questions of physical science, and for such cases the tribunal suggested would be more appropriate than the ordinary ones.

As to Question 8, I see no practical mode of assessing royalties; the value of an invention and the profits it ought to produce depend upon so many indeterminate circumstances and vary so frequently from changes in trade, other inventions, &c., that a licence duty could hardly be fixed for months without great risk of injustice. Warranties would be required by the licensee, and a fruitful source of litigation might be opened up. The nearest approach to a practicable plan which I have heard of is that of Mr. Scott Russell, viz., that a maximum royalty should be fixed on granting or renewing the Patent, but even this is open to many difficulties.

9 and 10. I do not think Letters Patent should be

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granted to a mere importer, it may be a fraud upon the inventor himself, and in the present state of international communication the cases are extremely rare where there is any merit in merely communicating a foreign invention of which the journals of the next week would probably contain an account. In the greater number of cases the Patentee is a trustee for the foreign inventor, and it would be better to grant Patent to the inventor himself, as the fact of his being the true and first inventor could be more fairly ascertained in the case of litigation, by his examination orally or by commission.

It would seem, at first sight, more for the interest of this country to grant no Patents to foreigners, as

Adjourned to to-morrow at half-past 4 o'clock.

we should thus get without restriction the greater number, if not all, foreign inventions; but were this so, other countries would legislate in the same direction, and we should have inventions patented in this country and the public more or less restricted, while they could be practised freely abroad;—thus giving foreign countries the benefit of our improvements without restriction, and also leading to secret or open importations of products patented here. Upon the whole, it seems to me better to grant Letters Patent to foreigners.

I have no suggestions to make as to the other questions.

W. R. GROVE.

Wednesday, 11th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR HUGH CAIRNS, Q.C., M.P.

W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q.C.
W. E. FORSTER, ESQ., M.P.
WILLIAM FAIRBAIRN, ESQ.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

SIR WILLIAM ARMSTRONG examined.

Sir
W. Armstrong.

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1095. (*Chairman.*) You have considered the subject of the Patent Law for a considerable time?—I have.

1096. I think I am not mistaken in saying that you have on various occasions expressed opinions generally hostile to the maintenance of Patents?—I have.

1097. Speaking theoretically, you would prefer the complete abolition of all Patents, leaving the use of inventions absolutely free?—That is my private opinion, but it is an opinion which I should not like to press at the present time, because, in the first place, I feel that I am quite in a minority upon that point, and I also doubt whether the public mind is ripe for so extensive a change.

1098. (*Mr. Fairbairn.*) Have you turned your attention to any modification which may be made in the existing Law, assuming a Patent Law to be continued?—I think that the most flagrant feature of the Patent Law is the indiscriminate grant of Patents to all applicants.

1099. (*Chairman.*) In your opinion ought there to be a preliminary inquiry of a more searching character than the present?—I think so; in fact, I consider that the present preliminary inquiry is a nullity.

1100. At present it is understood that the preliminary investigation is only slight and almost formal?—Yes.

1101. And that the result of it is simply to grant to the person who calls himself an inventor a right to sue?—Exactly so.

1102. You think that some means should be taken of ascertaining the novelty and the usefulness of an invention before it is patented?—Yes. I think that the granting of Patents ought at all events to be very much narrowed.

1103. Can you give the Commission any instances from your experience of inconvenience produced by the lax system of granting Patents at present?—I have experienced a great many cases, but I should rather object to specify cases, because doing so has already exposed me to a great deal of personal obloquy and vituperation; I would rather speak to principles than adduce particular instances.

1104. Then I will only put the question to you in a general form. Is it within your knowledge that considerable inconvenience does exist in those branches of business with which you are most conversant from the multiplicity of Patents?—Most certainly, and great obstruction.

1105. Can you state in what manner the inconvenience to which you refer arises?—One manner is this, that under the present Law a Patentee who is really not the sole or the first inventor is allowed to

take possession of an idea which is present to the minds of very many persons at the same time. Without any reference to his competency to develop that idea, and to give it practical value, he is allowed to have a monopoly of it, and thereby to exclude all other persons.

1106. Would you put it in this way, that the same idea may occur almost simultaneously to 20 persons engaged in the same business, and that one of them who has a few days or it may be a few hours' priority of the rest has the power of excluding all the rest from the use of that which they themselves have independently discovered?—Priority in application, to the Patent Office does not imply priority in invention. You have no means of ascertaining whether the person obtaining the Patent is really the first inventor, and in a great many cases I believe that he is not; in fact, the inventions, if I may so describe them (though I almost doubt the reality of any such thing as pure invention at the present day, everything is mere adaptation), are inventions for the most part called forth by the requirements of the moment. As soon as a demand arises for any machine or implement, or process, the means of satisfying that demand present themselves to very many persons at the same time, and it is very unfair and very impolitic I think that the person who gets first in the race to the Patent Office should have the means of preventing all others from competing with him in the development of that particular means or process.

1107. (*Lord Overstone.*) To apply that practically you say that invention is at the present day almost exclusively adaptation; take the question of the distribution of sewage, there is a great desire now to obtain a more efficient and a more economical means of distributing the sewage of towns over agricultural land, do you think that on the supposition that some person proposed a machine or a plan for accomplishing that object easily, speedily, and economically, he ought to be precluded from some beneficial result to himself from that, merely on the ground that it was adaptation and not invention?—The first question which I would ask is this, are we to consider the question of Patents with reference to the interests of the public or with reference to the interests of the inventor. I think that we must consider it either upon one footing or the other, either as a public question or as a question for the benefit of the inventor.

1108. Taking it upon the ground of the interest of the public, the public now feel that their interest would be greatly promoted by such a contrivance as

I have suggested; if such a contrivance should be suggested by any individual, would he not render a great service to the public, and is it not possible by some means or other to hold out to persons a temptation and encouragement to produce such a contrivance?—I do not think that because it is a mere adaptation the claims of the adaptor are less than if he was really an inventor, but I think that in all cases the reward, or monopoly, or protection, or whatever it may be, should be measured by the value of the service rendered and the amount of labour expended. Very many inventions, in fact the great majority of inventions, are the result of mere accident—if you let them alone they will turn up of themselves. There is no reason to adopt a system of monopoly for the purpose of eliciting them; they turn up simply in the ordinary and natural course of things, but if you can show that in any particular case the public is clearly indebted to the labour and intelligence of an individual for an improvement, whether it is an adaptation or an invention, or whether it is a novelty or not, I should be very glad to see some rational system of reward under which he could be benefited, although in the great majority of cases success in such matters would bring its own reward.

1109. You look upon a Patent right then only as a reward under consideration of justice to the supposed inventor, and not as a means of stimulating invention?—I think that there is very little necessity to stimulate invention.

1110. (*Mr. Fairbairn.*) How would you give these rewards in the absence of a Patent Law?—I am not prepared to say that. If the country would expend in direct rewards a tithe of what is paid for Patent licences and Patent expenses, there would be ample provision for the purpose. As a matter of opinion, I believe that if you let the whole thing alone, the position which a man attains, the introduction and the prestige, and the natural advantages which result from a successful invention and from the reputation which he gains as a clever and able man, will almost always bring with them a sufficient reward; that is my opinion. I know that it is not the general opinion, and therefore I do not wish to press it. We will assume for the present that some system of Patent right has to be maintained; the question is, how you can modify that so as to diminish its inconveniences?

1111. You think that if a person brings forward a discovery useful to the public, he should be rewarded in some manner?—I think that his reward will come naturally.

1112. That brings us back to some law under which some means might be adopted for rewarding the person who brings out a useful invention?—Yes, if we are to have artificial rewards.

1113. (*Mr. Forster.*) But I rather understood you to suppose that in the absence of any Patent Law, the law of supply and demand would give such a reward for his services that he would be rewarded without a Patent Law if it was a really useful invention?—Yes, wherever a man really shows aptitude for invention and general cleverness in these things he naturally gets on in the world, and he has generally quite sufficient reward. The mere conception of primary ideas in invention is not a matter involving much labour, and it is not a thing, as a rule, I think, demanding a large reward; it is rather the subsequent labour which the man bestows in perfecting the invention, a thing which the Patent Laws at present scarcely recognize.

1114. (*Lord Overstone.*) Have there not been discoveries which have been practically useful during the lifetime of the discoverer, and which have been lost to the public from the want of sufficient publication afterwards?—I have no reason to say so.

1115. You know of no such cases?—No.

1116. (*Mr. Fairbairn.*) The difficulty which would present itself to my mind under such a condition of things as you propound would be this: that a *bonâ*

fide inventor if he was a poor man would have very great difficulty in the matter; another man might come and take up his invention and deprive him entirely of the benefit of it unless he had some law to protect him, although he very likely had spent a great part of his life and all his property upon the discovery?—I cannot agree with you that that would practically be the case. The fact is that a primary idea, a mere scheme, is not in itself of much value until it has gone through the experimental stage and has been brought to a practical condition. I have every week letters from inventors, and I daresay you have the same; I have scores of them. Poor men very often come to me imagining that they have made some great discovery. It is generally all moonshine, or if it looks feasible it is impossible to pronounce upon its value until it has passed through that stage of preliminary investigation which involves all the labour and all the difficulty and all the trouble. Many a poor man is ruined by fancying he has made a discovery which, by means of a Patent, will bring him a fortune. He loses all relish for his usual pursuits, and sacrifices his earnings to a phantom.

1117. I am merely supposing the case that a man has really made a discovery, not one of these frivolous and useless inventions or mere ideas, but that he has brought out a real idea, and developed it to any extent, unless he has some protection of the law may not he be deprived of it by other parties who are interested in carrying on that particular discovery?—I think that absolute discoveries are very rare things; nearly all inventions are the result of one improvement built up upon a preceding one. A poor man who has the ability to make really practical improvements is almost sure to rise in the world without the aid of Patents.

1118. (*Vice-Chancellor Wood.*) Have you thought of what course of preliminary inquiry you would recommend?—I think that anything which would have the effect of choking off a great number of these Patentees would be a very great improvement.

1119. Whether by scientific men or by legal means, or by a combination?—By a combination.

1120. (*Chairman.*) So far as the question of the novelty of an invention is concerned, a preliminary inquiry might present little difficulty; but we are anxious to know whether you can suggest any rule which could be laid down by which such a tribunal as is proposed to conduct the preliminary investigation could distinguish between an important and a frivolous invention?—All that I can say upon that point would be that the tribunal ought to be composed of persons competent to form a judgment upon such subjects, and that they ought not to grant a monopoly unless they were satisfied that sufficient grounds existed for so doing.

1121. (*Lord Overstone.*) Take as a practical illustration the invention of gas, extracted from coal, as a source of illumination. Upon the supposition that there had been a solitary tribunal in existence at that time to determine upon the probable value of the invention, is there not strong reason to believe that they would have rejected it on the ground of its utter absurdity and uselessness?—Under any system you may pick out cases where a wrong decision would be come to, and hardship be occasioned.

1122. (*Chairman.*) But if in the course of a few years, five or six cases of undoubtedly valuable discoveries occurred, to which Patents had been refused on the ground of their unimportance or impracticability, if that is to be admitted as a ground, do you think that public opinion would allow the tribunal to continue; would there not be a pressure upon it greater than it would be able to sustain?—I can give no opinion upon such a question. I think that nothing can be worse than the present indiscriminate system, and I think that it is extremely important to contract it, and to make the granting of a Patent the exception rather than the rule.

1123. Then, as I understand you, you do not carry

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your opinion upon this point further into detail than this, that you think that any inquiry which would have for its result greatly to diminish the number of Patents taken out would be so far a gain?—Undoubtedly, in my opinion.

1124. (*Lord Overstone.*) You say that nothing can be worse than the present system. Can you state distinctly what are the practical grievances of a serious magnitude which arise under the present system?—Yes. I will begin with a grievance which I complain of personally, and that is the necessity which I am under of taking out Patents, not for the purpose of obtaining for myself a monopoly, but simply for the purpose of preventing other persons from excluding me from my own inventions. It is a source of considerable expense, and of a very great deal of trouble and vexation to me. In all cases I find it necessary to take the preliminary step in a Patent, but in many cases I find it necessary actually to mature a Patent, and to take out a Complete Specification, and for this reason, that if I bring forward an invention, and do not patent it, another person patenting an improvement upon that invention really appropriates the whole invention, because no person will take the original invention without the improvement. That is a personal grievance which I continually experience.

1125. (*Chairman.*) You are compelled to become a monopolist in order that a monopoly may not be practised as against you?—Yes, that is one point, and also to prevent myself from being actually deprived of my own inventions by other persons patenting improvements upon them.

1126. (*Mr. Forster.*) It is the case, I believe, that as regards a complicated machine which contains many different parts a patent may be obtained for that machine which covers the whole of the different parts of it. Some other person, yourself for instance, might make a very considerable improvement which would affect one small part of that machine?—Exactly so.

1127. But you are unable to do so because you cannot interfere with the Patent over it; do you find practically that that clogs the progress of invention?—I will take one of my own inventions. I will take an hydraulic crane, for example, which I will suppose that I do not patent, and I will suppose that another person invents an improved valve and applies it to hydraulic cranes, and that he patents that improvement upon hydraulic cranes, clearly the result of that is, that if it gives an improved character to the whole machine he will obtain the monopoly of the machine, because he has a Patent for the improvement, and that carries with it the machine itself.

1128. That is not precisely what I meant. My question was this, that the Patent may comprise the whole of the different parts of a machine, but you or any other person might make an invention which would improve one part, but in consequence of the Patent applying to the whole you are unable to do so?—Clearly. No one attempts to improve a patented machine, because the Patentee would take all the benefit.

1129. Have you found that that has practically been the case?—Undoubtedly.

1130. (*Mr. Hindmarch.*) But would not the effect be precisely the same in the case which you describe, whether you yourself patented your invention or not?—If you did not patent your invention another man might patent an improvement upon it, and if you did patent it, so he might patent an improvement upon it?—No, certainly not, because if he patented an improvement upon it his improvement would be of no value without the machine itself.

1131. Still you could not use his improvement?—That is another matter. I do not complain of that; but I complain of his sweeping away my invention by sticking an improvement upon it.

1132. (*Lord Overstone.*) You have quoted as one of the practical grievances the circumstance that you are compelled to take out a Patent for invention as a

means of protecting yourself against other Patents which would be taken out to your annoyance?—Certainly.

1133. What is the grievance of your being compelled to take out a Patent?—The grievance is that I am subject to the expense and to going through all the trouble necessary for doing so.

1134. (*Mr. Forster.*) And also, I suppose, that you subject yourself to the fear of lawsuits against it?—If I take out a Patent, then of course I am liable to litigation.

1135. (*Mr. Fairbairn.*) If I understand you correctly, you do not appear to object to a single monopoly; you do not object to the inventor of a Patent useful to the public having a monopoly, but you object to a series of monopolies for one improvement after another?—No; my private opinion goes against all Patents, but I say that I will not press that question. Then I say the next question is to narrow the system as much as possible, so as to diminish the number of Patents, and make the obstructions as little felt as possible.

1136. (*Mr. Hindmarch.*) But is not almost every Patent which is now granted a Patent for an improvement?—A great many Patents are granted for things which are no improvement at all.

1137. (*Lord Overstone.*) It is the result of your personal experience that the vast number of Patents now granted does create a serious obstruction to the convenient progress of inventions which would follow the advance of human ingenuity even without getting Patent rights?—Yes, most distinctly. I have many times found it necessary to desist from following up ideas of improvement in consequence of the existence of a Patent which would have absorbed such improvements when brought to maturity. The ground is so occupied by Patentees, and there is so much uncertainty as to what Patents are valid and what are invalid, that it is difficult to find a spot to work upon without risk of interference.

1138. (*Vice-Chancellor Wood.*) Even when you have patented your original invention so as to secure it, if in the 13th year somebody else invents an improvement, at the end of the 14th year you cannot have your original machine with his improvement?—Exactly so.

1139. (*Mr. Forster.*) When a person thinks that he has altered a machine so as to make it much more beneficial, he is in great danger in doing so of finding that he interferes with some part of some Patent?—Yes, there is very great risk, and I have continually found it necessary in my own experience to turn aside from the natural course which one would take as a machinist, in order to avoid somebody's Patent which is of no value at all, a dormant Patent, which the possessor has not ability to follow up and turn to a useful result, and all that it produces is an obstruction, and you cannot follow the course which you believe to be right simply because this dormant Patent exists. That inconvenience I have experienced myself several times.

1140. (*Mr. Fairbairn.*) Have you any opinion to give as to how to get clear of these obstructions so as to remedy that evil?—I have already stated that I think that such a stringent preliminary inquiry should be made as would choke off the vast majority of these Patents.

1141. (*Vice-Chancellor Wood.*) Another suggestion has been made that if the preliminary inquiry should be found to be very difficult in ascertaining the real value of a Patent, at the end of the third or the seventh year, when you are now called upon to pay an additional fee, you should be obliged to prove that your Patent had been in effect a useful discovery, so as not to obtain a renewal as a matter of course, but to be obliged to show some advantage derived from the discovery?—I think that that would be a very wholesome regulation. I think that if the Patentee was obliged to go before the first tribunal periodically, and prove that he really merited a continuance of the monopoly, it would be a very proper thing.

1142. (*Chairman.*) Have you considered whether such an inquiry as you propose could be effectually conducted, where the applicant was pressing his personal claim on the one hand, and where there was no one to represent the public interest on the other?—He would have a better chance of succeeding, of course, but probably persons who were engaged in similar investigations would keep a watch upon his case.

1143. The claimant for a Patent would have the advantage of presenting his case thoroughly prepared to the Judge who had to try the case?—Yes.

1144. On the other hand, there would be no argument, and no person interested in proving that the invention was not new or that it was not useful?—Yes.

1145. Would it be possible, under those circumstances, for a tribunal to come to an unbiassed decision?—I daresay there would be very many cases in which persons would obtain Patents without sufficient grounds for them, but the cases would be less numerous than they are at present. Then another great evil of the Patent system is this, that an invalid Patent really answers the purpose of protection almost as well as a valid one. I believe that there is not one Patent in ten which would bear scrutiny, and the mere name of a Patent often answers all the purpose. Nobody will face the litigation necessary to get rid of it.

1146. In very many cases people prefer to pay black mail rather than undergo the expense of a lawsuit?—In almost all cases; I know that in my own experience, if I find that a man has a Patent which I am satisfied is not a valid one, I would rather go out of the way to avoid any conflict with him.

1147. (*Vice-Chancellor Wood.*) Or pay a small licence fee?—Or pay a small licence fee; but in the majority of cases one avoids the thing altogether, and adopts some less direct method of obtaining the same object.

1148. (*Chairman.*) May we take it that under the present system, if a man has obtained a Patent with little or no inquiry, although that Patent would not stand investigation if opposed, yet if the Patentee is content to impose a moderate tax upon those who want to use his invention, they will pay that sum without its being worth anybody's while to contest it?—Yes.

1149. And that in that case he is obtaining an advantage which it was never the intention of the law to give him?—Yes.

1150. Do you believe that the cases of that kind are very numerous?—Very numerous, and the cases are still more numerous in which the existence of a monopoly simply has the effect of deterring other persons from following up that particular line of improvement.

1151. They will not proceed upon that line of discovery because they find traps set for them at every step which they take?—Exactly so.

1152. (*Mr. Forster.*) Do you think that there would be a great advantage in shortening the term of Patents?—Yes, I think the less we have of them the better.

1153. (*Sir H. Cairns.*) Has it occurred to you whether you could have a preliminary inquiry attended with publicity; that is to say, if I may explain myself, with some sort of public announcement of the particular invention for which the Patent had been sought, so that persons might see what it was, and come in and oppose?—I have not given much attention to the machinery by which it should be carried out, but it occurs to me at the moment that it would be a proper course to give every person an opportunity of showing reason against a monopoly being granted.

1154. (*Lord Overstone.*) Would not that almost necessarily involve such a publication of the plan as would be destructive of the Patent?—No, I think not; it would be merely a publication of the title of the Patent.

1155. (*Sir H. Cairns.*) The title, as probably you observe in the publications weekly, does not give

very much information?—I think that it ought to give as much information as possible. I think that one of the great objections to the present system is the vagueness of the titles of Patents.

1156. Still you must have observed, I suppose, how difficult it would be to give a title which would accurately represent the invention?—Yes, and the difficulty is in defining an invention. In the case of copyright the thing claimed is distinctly defined. There is no possibility of two persons writing the same book or producing the same work of art, but two persons may and do constantly conceive the same invention. That is because the invention is not of that defined character that the subject of copyright is; there is a vagueness about it, a comprehensiveness which renders it very objectionable as a subject of monopoly, because you cannot grant a monopoly without excluding other persons who are working upon the same subject.

1157. (*Mr. Fairbairn.*) Would it be an improvement to place the Patent Laws upon somewhat the same principles as copyright?—If you could make the subject of a Patent as distinct as it is in copyright, of course it would do away with much objection; that is to say, if a man could have a monopoly of a machine in all its details, without any power of departing from it at all, there could be very little objection to that, but he has a monopoly of the general idea of the machine, or the process, or whatever it is, and the consequence is, that nobody can improve upon that idea except for the advantage of the Patentee, and therefore nobody will attempt to do so. I am quite satisfied that a very great number of inventions which have remained inoperative for years and years, many of which I could easily name, would have been brought to perfection very much sooner if it had been open to all the intellects of the country to grapple with the difficulties of them.

1158. There is no doubt that that would be at the expense of the original inventor?—The question is, whether you are to consider the interest of the individual inventor or the interest of the public. I think that it ought to be clearly laid down which is to be considered.

1159. (*Vice-Chancellor Wood.*) May you not consider both?—The public ought not to be sufferers.

1160. The inventors are the inventing part of the public?—Yes, but they are a very small portion of the general public.

1161. (*Mr. Fairbairn.*) It appears to me that the public are not entitled to any great advantage from an invention when they have done nothing for it, and that the original inventor should not be left unprotected?—Before one can discuss the subject it should be clearly laid down upon which principle we are to proceed, whether we are to regard the interest of the inventor, or the question of public policy.

1162. (*Mr. Hindmarch.*) Do you think that the original inventors would be likely to give their inventions to the public if they had no remuneration or reward?—My firm conviction is, that if there was no artificial reward for invention you would have just as much as at present.

1163. (*Vice-Chancellor Wood.*) With respect to patenting a machine, if you only gave the Patentee a right to the machine in its entirety just as it exists, would that be worth anything; would you not have mechanical equivalents immediately?—Yes, and you would very soon have an improvement upon it. I do not think that you can reduce the Patent right to the same basis as copyright; if you could it would be unobjectionable.

1164. (*Mr. Hindmarch.*) Is not one difference between copyright and Patent law this, that with regard to copyright a man actually creates that which is the subject of it, and in the other case he merely discovers the capability of a thing which pre-existed?—No doubt there is that distinction.

1165. Is not that a material distinction between the two things?—Yes, but I object to the "capability" being made the subject of a monopoly.

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1166. (*Chairman.*) The next question which I will put to you is, whether you have considered the machinery which is at present provided for dealing with invalid Patents?—No, I have not given any consideration to these practical questions.

1167. (*Sir H. Cairns.*) Although you perhaps have not considered the precise working of the law with regard to the repeal of invalid Patents, you would be able to give us your opinion on this point. Suppose that the question was between these two remedies for choking off, as you call it, worthless Patents—a preliminary inquiry on the one hand, requiring advertisement and an invitation to the public to come in and oppose, and thereby causing some delay, and, on the other hand, an easy and cheap method, if it could be provided, by which any person objecting to a Patent as soon as it was completely specified, could come and ask for the repeal of that Patent, obliging the Patentee to pay the costs of the proceeding, supposing the Patent should be repealed—of those two remedies which would you think the preferable one; you observe that the one is a preliminary investigation before the Patent is granted, and that the other supposes the Patent to be granted, and to be completely specified, and the mode of working it to be declared in black and white, and then some person, or some society, or trade, who think that it might be likely to hamper them, come in a summary way before a proper tribunal, and state their reasons why that Patent should be cancelled?—That would make the investigation in effect preliminary to the granting of the Patent.

1168. No, I suppose the Patent to be granted?—If you make it subject to repeal, it is very much the same thing. I think that it would be very proper that a man should completely and distinctly bring forward his Specification before he acquires any Patent right.

1169. At present the course is that in the first instance a Provisional Specification, which is somewhat summary and curt, is put in, and upon that protection is given for a certain number of months, during which the Provisional Specification is kept secret, and by the end of that time there must be a Complete Specification lodged, and then and not till then the full Patent is granted?—Yes.

1170. What I desire to lead your mind to is this, would you think it better that the discussion as to the validity of the Patent should take place upon the full Specification so lodged, or upon the more crude and short Provisional Specification, which must be the case upon a preliminary inquiry?—It strikes me that it ought to be upon the Complete Specification.

1171. (*Chairman.*) In the event of its being thought impracticable to establish a really searching investigation in the first instance before the Patent was granted, do you think that it would be almost equally satisfactory to those whose interest it is to contest Patents, if they had an opportunity of doing so at the least possible cost, and before a court specially set apart for that purpose?—If you had a tribunal in the first instance, there would, even if there was no opposition, be a searching investigation, which I have no doubt would put a stop to a very great number of Patents. I believe that a very large proportion of them would fall to the ground upon the smallest investigation.

1172. (*Lord Overstone.*) Do you mean investigation as to novelty or want of utility?—Want of utility; want of importance. I should certainly make importance a criterion as well as novelty.*

* In investigating a claim for a Patent, I conceive that a Court would have to inquire not only as to the novelty of the invention, but also—1st, whether it be of sufficient public importance to justify so grave a step as the granting of exclusive rights by the State. 2nd. Whether the character of the invention be such as to warrant the presumption that it would not have presented itself to ordinary minds when the occasion for it became generally felt. 3rd. Whether the granting of a monopoly to the inventor would not in his particular case seriously interfere with the public interest, by preventing other persons making improvements in the same direction. 4th. Whether the inven-

1173. (*Chairman.*) You would leave a discretionary power in the Court to deal with the importance of the invention?—Yes.

1174. (*Mr. Fairbairn.*) A great many of them would dissolve at the very sight of an investigation?—I think that an immense number would.

1175. (*Lord Overstone.*) Do you think that a Court could be constituted which would command the confidence and the concurrence of the public in deciding the question of the utility or the importance of a Patent claimed?—There is no doubt that they would make mistakes, and perhaps frequent mistakes, but still, I think that it would curtail the amount of mal-administration which we have at present to a very great extent.

1176. Do you think that those mistakes could be kept within such narrow limits that that Court would not lose the public confidence?—I should think that it would be so, though I feel a difficulty in giving an opinion upon that point. It would, of course, depend very much upon the competency of the persons. I think that it is possible to have persons so competent as to preserve the confidence of the public.

1177. What would be your idea as to the mode in which such a Court should be constituted?—I am answering questions at present without any previous consideration, and therefore I do not know that my answers are of much value; but I think that you would require to have very first-rate men, and to offer a sufficient pecuniary inducement to get such men.

1178. (*Chairman.*) You have been, I think, personally concerned in Patent cases, in defending or resisting Patents?—No; I have been very little mixed up with them. I have always kept clear of them.

1179. Is it within your knowledge that there are great complaints of the delay and expense at present involved in Patent causes?—There are very great complaints of the trouble and expense, and generally of the litigation, to which people are subjected; and there is not much confidence in the competency of a jury to determine such questions.

1180. Do you conceive that it would give equal satisfaction to the public if such cases were tried without a jury, the Judge having the advantage of scientific men sitting as assessors with him?—I think that if, instead of a jury, you had a body of scientific men to assist the Judge, it would be a very great improvement.

1181. You think that if the Judge were so assisted, there would be a willingness to allow the case to be decided by him without the intervention of a jury?—I should think so, but I do not think that my opinion on these points is of very much value.

1182. Have you considered the question of compelling Patentees to grant licences for the use of their Patent inventions?—I think that that would be an improvement.

1183. (*Mr. Hindmarch.*) Do you think that it would be a practicable improvement?—I do not see why it should not. I see no reason against it.

1184. How would you define the terms upon which you would compel a Patentee to grant a licence?—It would be a question of what the value of the invention was. An invention without much merit would not be entitled to the same licence fee as one with considerable merit.

1185. How would you propose to determine the amount to be paid?—It would be in the discretion of the tribunal, whatever it was. I can imagine a Court

tion be of a nature to require considerable expenditure on the part of the inventor to bring it into complete practical operation. 5th. Whether the invention has been already sufficiently reduced to practice to enable a safe judgment to be formed of its efficacy, or whether it is a mere scheme requiring working out in the detail, and proof by trial before its value can be ascertained. I think the Court ought to be guided by such considerations as these in determining whether a Patent ought to be granted or not. I am not insensible to the difficulties under which the Court would labour, but if such investigation be impracticable, the evils of the system will, in my opinion, be incurable.

established for the adjudication of all questions of this kind, everything appertaining to Patents, and that that Court should have a jurisdiction upon such points as you speak of.

1186. (*Lord Overstone.*) Do you think that any tribunal could estimate the pecuniary value of an invention, except by the guidance of the subsequent practical experience of its working?—But if there has been no practical experience of its working, I do not see that there is any claim for compensation.

1187. If you were to establish a system of compulsory licence that licence must set forth at the outset the pecuniary terms upon which the patentee is to be compelled to hire out his patent; how are those pecuniary terms to be adjusted beforehand until the Court is instructed by subsequent experience as to the real practical value of the invention?—The question might be brought before them from time to time according as the merits of the invention were exhibited.

1188. (*Mr. Forster.*) The suggestion has been made that the Court should be empowered to compel a licence after three years, after the invention had got into operation. Do you think that if scientific men were appointed as assessors to assist the Judge in the trial of Patent cases such assessors would be capable of assessing the value of a licence after two or three years of practical working?—Yes; I should think so.

1189. (*Mr. Hindmarch.*) Does it not often happen that an invention turns out to be much more valuable than is presumed at the commencement of the Patent and sometimes just the contrary?—Yes, its value will vary according to the progress of events.

1190. If the value was to be ascertained at the end say of the fourth year, it might be found that the licensee at the end of the 10 years would be in a bad condition, or he might have very much the advantage of the Patentee?—Yes; it would be quite feasible to allow him to bring his claims before the tribunal periodically.

1191. Would not the consequence of that be that the licensee would be embarking in a manufacture, he being uncertain at the time what he would have to pay for licence duty in the course of the next two or three years?—At present it is quite uncertain too, unless he makes an agreement with the Patentee.

1192. (*Sir H. Cairns.*) Have you known in practice Patentees refuse licences?—I have known Patentees very exorbitant in their demands for licences, far beyond the merits of their inventions.

1193. (*Lord Overstone.*) Would not the granting of compulsory licences be in reality fixing by public authority the price at which an article was to be sold?—I think that that would be better than allowing the Patentee to fix his own price.

1194. (*Chairman.*) Would it not rather be fixing a money price upon a privilege conceded by the State?—Yes.

1195. (*Vice-Chancellor Wood.*) You have said that you have known cases of Patents lying dormant a long while, until the article became of more importance in the judgment of the public, and that then licences were taken out. Does not that amount to this, that the Patentee, by constituting himself judge of his own invention, does at last in those cases obtain his price?—Yes.

1196. And that it would be an injustice to him to compel him to lower his price?—No, not at all. He is able to get his price after the investigations of other people have given additional value to his Patent, that is to say, they have made improvements which he can appropriate to his Patent, and in that way it gives it an additional value.

1197. But they have built their improvements upon his invention, as I understand?—No; he gets possession of a certain idea; that, in the form in which he conceives it, is of no value, but at a subsequent period other persons following in the same line of discovery, probably without knowing of the existence of the Patent, make improvements, or produce the same

thing in an improved form, then he takes possession of that under his Patent, and is able to obtain a licence fee, and an advantage from it, which he could not otherwise do.

1198. (*Mr. Grove.*) He may prevent their practising their improvements, provided they embody his Patent, but he cannot avail himself of their improvements?—What I complain of is this, that a person obtaining a Patent for a crude invention prevents other persons from entering upon the same ground unless at their own peril, and I have known cases where, in the ignorance of the existence of a Patent, improvements have been made, and practical value given to an invention which has been previously patented, and then that Patentee has come forward and said, "That is my invention, and you must pay me for using it."

1199. (*Mr. Forster.*) Do you consider, supposing that the Patent Law was continued, that much of the evils which you at present feel to result from its operation would be removed by making licences compulsory?—I think that they would be mitigated.

1200. (*Chairman.*) You think that practically there would be no great difficulty in settling the terms upon which the licence should be granted by authority?—No, I think that the tribunal would be quite as competent, and more likely to do it properly, than the Patentee himself.

1201. (*Lord Overstone.*) To take practical cases, take such a case as the invention of the electric telegraph?—But I do not think that there is any such invention as the electric telegraph. It is one of those things which have gone forward by slow and gradual steps. It is impossible to put your finger upon the point at which the invention begins, and it is the case with all great inventions.

1202. Does not that increase the difficulty of fixing the price at which any one of those successive steps should be licensed out, take for an illustration, not the discovery of the electric telegraph, but the discovery of one of the stages which have ultimately established the electric telegraph?—But the question is whether the tribunal or the Patentee himself should be the judge of what he is entitled to. It appears to me to be more rational that a disinterested tribunal should be the judge than that the Patentee himself should.

1203. (*Mr. Grove.*) How would you meet this difficulty. Take the instance of the electric telegraph, there are an enormous number of Patents. I think we have heard them stated at some 400 or 500, at all events sounding in hundreds; but take a less number. Supposing there are 20 or 30 inventions, all being living Patents, each having some degree of merit, and each, as it were, overlapping the other, how would you adjust the relative merits of each of those parties, so as to give them with any chance of practical success remuneration from a licence duty?—That is just one of the difficulties arising out of the present complexity of the system. I think that the first step is to diminish that complexity, and not to grant so many Patents, and only to grant Patents for very prominent improvements, not improvements which present themselves by accident, but where there is merit; not only where the improvement is valuable to the public, but where the inventor is really meritorious, and where protection may be considered politic, in order to enable him to mature and perfect his invention. I think that if you adopted some general proceeding of that sort you would limit the number of Patents very much indeed, and diminish the complexity of them.

1204. Even with a smaller number, would you not have this difficulty, would not the value of the licence dues be dependent very much upon the relation of inventions to each other, say that within the 14 years there are half a dozen inventions, each of them would have affected the value of the previous invention, and be itself in turn affected by a subsequent invention, so that, if you fixed your licence duties at a certain sum in the year 1862, you would probably have to alter that again in 1863. Then if you apply that to

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even a limited number of Patents in the various arts and manufactures, you would have a constant fluctuation which might create a good deal of difficulty?—Still I think that it would be better than leaving it entirely to the arbitrary and exaggerated notions of value, which the Patentee naturally holds.

1205. (*Sir Hugh Cairns.*) Suppose that a Patent were granted for a particular manufactured article would you force the sale of that article at a certain fixed price by the Patentee?—These are subjects to which I have not given attention, but it appears to me, as a principle, that it would be a very wholesome thing to give a tribunal of competent men control over the reward to be paid to a Patentee.

1206. (*Chairman.*) In short, instead of giving to a Patentee the exclusive use of his invention for a certain time, you would prefer giving him simply a power of taxing, within certain limits settled by competent authority, all persons who should use it?—Exactly so.

1207. (*Mr. Fairbairn.*) Do you think that this compulsory system of licensing would benefit the public to any great extent, or do you not think that the Patentee had better go into the market with his Patent and do the best he can for himself?—I think that it would protect the public from the exorbitant demands of Patentees.

1208. If any Patentee is very exorbitant, it strikes me that the public will stand aloof?—Then the public will suffer.

1209. The public will suffer to a certain extent if it is a very valuable Patent?—Yes, and if the Patent has no value, the question does not arise.

1210. It is more than probable that the Patentee would come to his senses and find it necessary to reduce his demand?—I cannot help thinking that a discretion, lodged in disinterested persons upon that point, would be convenient.

1211. (*Mr. Forster.*) Have you ever come in contact with any case in which the owner of one or two of these Patents has managed to buy up other Patents so as to obtain full possession of an important machine, and thereby to obtain a monopoly of something which is of immense advantage to the public?—It has now become a very general practice for companies to buy up all the Patents upon a particular subject.

1212. In that case the power of fixing an exorbitant price really preventing the use of the article altogether operates very disadvantageously to the public?—No doubt of it. I feel that I am speaking upon details which I am not competent to give an opinion upon, because all these questions are answered merely upon the impulse of the moment. I have not given any consideration to them at all. My objection to Patents is upon the broad principle.

1213. (*Mr. Grove.*) As a general rule would not the principle of supply and demand act to a great extent in this way, assuming that in certain particular cases a patentee may refuse licences altogether, yet, as a general rule, a Patentee looks to profits from his invention, and if he finds that his demand is too high and that the public do not practice his invention, will not that lead him to reduce his demand so as to find the maximum which he can get by the sale of his invention, and which may be attained in two ways, either by a very large royalty from one man or more probably by a smaller royalty from a greater number. Would not the commercial principle of parties getting the largest market for their commodities at the most remunerative prices to them, apply as a general rule to Patentees?—I think not, because the Patentee is a monopolist, whereas, in other cases where you cannot deal satisfactorily with one man you go to another, but here the State grants to an individual a monopoly, and therefore the public are at his mercy. The question is whether there should not be some control over him to insist upon moderation in his demands.

1214. Is not the principle which I have mentioned found to apply to practical monopolies; for instance, the Post Office is a monopoly, and yet it has been

found more lucrative to charge a smaller rate of postage. Omnibus companies have been practical monopolies, and yet they have found it advantageous to charge low fares. Railway companies have had practical monopolies in a district, and they have found it pay better to charge low fares. It is frequently far more to a party's interest to charge moderate prices even when there is an entire monopoly?—But you are trusting entirely to the discretion of a person who has the privilege.

1215. I am assuming that he would be guided by the ordinary impulses which guide persons, namely their own interests?—I think that practically there is no doubt that the claims of Patentees are very frequently, and I may say generally, excessive, and beyond the real value of their inventions; but there may be cases in which new conditions of things arise, and the invention, if invention it may be called, becomes a matter almost of necessity, and the public must have it. The case which has been put I think is a very strong one, in which a public company or a large capitalist buys up all the existing Patents, and thereby acquires a power which may be exceedingly oppressive.

1216. (*Vice-Chancellor Wood.*) In that case they choose to avail themselves of their Patent simply by the user of it for themselves and their own profit?—Yes: there is another point which occurs to me, and that is this, in the vast majority of cases the invention, as described by the Patentee, is of a very crude and imperfect nature. It often occurs that if another person could take up that invention, and give it his attention, he would be able to mature it and greatly add to its value; he abstains from doing so because he knows that the result of the labour which he would expend upon it will only increase the charge upon himself for using the invention; that is a case in which I think it ought to be left to the discretion of a tribunal, whether an additional charge is proper or not. From my own experience I know of many cases in which I see that a person has a good idea, but in the form in which he has it, it is of very little value. If I took up his idea and gave additional value to it by giving it development, it would not be fair to me for that man to say to me, "I must charge you so much more," or that the public should pay him so much more for using it. I think that he should not be paid for improvements which he has not effected. In a case of that sort the tribunal would have an opportunity of controlling his demands.

1217. (*Mr. Forster.*) Is it not the case at present that there may be a machine over which such a company as we have described has obtained a right by buying up all the Patents connected with it, and that you, or anyone else, might see that there might be a very great improvement, but that that improvement could only be made by making use of a part of the things which were patented by the possessor?—Exactly so.

1218. Is it not the case that such possessor could refuse you a licence, and so prevent you from making the improvements altogether?—Certainly he could.

1219. (*Vice-Chancellor Wood.*) There might possibly be another mode of dealing with the matter. I spoke just now of compelling people, at the end of the third or seventh year, to show that their invention had been useful; do you think that it might be feasible, in order to meet such a case as has just been described, to provide that if a Patentee could not show that he had communicated the use of his Patent to others by means of a licence, that should be a ground for refusing an extension of the period?—Yes; I think that a general control over the Patentee is desirable.

1220. (*Chairman.*) With regard to the importation of inventions from abroad, after what you have stated, I need hardly ask you whether you consider that Patents should be granted to those who bring inventions into this country?—I do not, certainly.

1221. In practice, I presume, that any invention in France, or Germany, or America, of any importance,

is known in this country?—It is a matter of general publicity. There is such free intercourse between nations now, that everything going on in the world of invention is known in one country as well as in another.

1222. (*Mr. Forster.*) It would be almost impossible for any useful invention abroad not to be made use of here?—Certainly.

1223. (*Lord Overstone.*) Is it the fact that Patents are taken out in this country for processes which are in operation abroad, but which have not been previously introduced into this country?—Certainly. A process in actual operation abroad, which has not been published in this country, can be made the subject of a Patent.

1224. Is it practically the case that processes which are carried on abroad are brought into this country by parties who patent them here?—Yes.

1225. (*Sir H. Cairns.*) A great number, every week?—Yes, constantly.

1226. (*Mr. Forster.*) Is it not the case that it is a rare thing that a process which has been in operation for some time abroad is patented afterwards in England; is it not generally the case that a Patent is taken out in England at the same time as it is taken out abroad?—I think that, in the majority of cases, it is taken out at the same time certainly.

1227. Do you know of any cases in which a discovery or an invention of any importance has been at work for some time abroad, and has only been brought into England by a Patent?—I think that such cases used to be of not unfrequent occurrence; that a person travelling abroad met with some particular process in operation at some place, and took the first opportunity of patenting that invention in this country. That used to be frequently the case, but now that the intercourse between nations has so much increased and improved, and publications are so numerous, I should think that instances of that kind are comparatively rare.

1228. (*Lord Overstone.*) The greater intercourse and the greater publicity which now prevails generally throughout the civilized countries increases the security which we have that useful inventions in operation abroad will necessarily find their way to this country?—Yes, if you will let them alone they will come. If the object be to obtain possession of these inventions it is quite unnecessary to resort to any system of Patents, because they would find their way here without it.

The witness withdrew.

Adjourned to Tuesday next at half-past four o'clock.

Tuesday, 17th February 1863.

PRESENT :

The Right Hon. LORD STANLEY.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR HUGH CAIRNS, Q.C., M.P.

HORATIO WADDINGTON, Esq.
W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

MONTAGUE EDWARD SMITH, Esq., M.P., Q.C., examined.

1235. (*Chairman.*) You have had a good deal of experience I think in Patent cases?—Yes; I have had a good deal of experience in them since I have been at the bar.

1236. Have you considered the question of a preliminary investigation before a patent is granted?—I have.

1237. Have you formed any opinion as to whether that would be expedient?—I think that it would be expedient to make the preliminary enquiry a little more stringent than it is at present, but I do not think that it would be possible to have a perfect inquiry or to make it final. It has occurred to me that the Law Officers require more assistance than

1229. (*Mr. Fairbairn.*) Do you see any objection to granting Patents to foreigners for inventions?—It is quite unnecessary; I have an objection to Patents of all kinds, as I have already stated; but in that case, unless you wish to benefit the foreigner, unless that be the sole object, as a matter of policy, I do not see what the motive to apply the Patent system is.

1230. (*Mr. Forster.*) Do you imagine that if we did not grant to foreign nations the power of establishing the Patents of foreigners in England, we should not obtain the right of patenting abroad?—It is possible that it might not be reciprocated, probably that would be the effect of it.

1231. (*Mr. Grove.*) Might not it be a serious detriment to this country if inventors in England had not the privilege of patenting abroad. The public would be, to some extent, shut out from an invention for 14 years in England while it could be practised in any neighbouring country as an open invention, and improved upon, and therefore other countries would have advantages which we should not have if there were not that system of reciprocal patenting?—Your question appears to me to be this, whether it would be advantageous that this country should have the power of patenting abroad; of course it must be an advantage that it should be so.

1232. You would be against patenting altogether, but assuming the Patent Law to be continued, is it not better that we should get the privilege of having our inventions patented abroad, and that there should be a reciprocal system of patenting inventions here than that we should be restricted to the opportunity of patenting them here and that our inventions should be used abroad?—If the Patent system is to be maintained, it may, perhaps, be expedient as a matter of reciprocity to allow foreign inventions to be patented, but I have not considered that view of the case.

1233. (*Mr. Hindmarch.*) Is it not the law in America at the present moment that they will only grant Patents to foreigners upon the same terms as foreign countries grant Patents to Americans?—I think that the American law does not grant Patents to foreigners at all.

1234. I have reason to know that they grant Patents to foreigners, but only upon the same terms as the nations of those foreigners grant Patents to an American citizen?—I was not aware that that was the case.

they now have in dealing with the applications which are made for Letters Patent. The scheme which I would venture to propose for a tribunal for the trial of Patent causes would include a panel or list of assessors who should assist the Judge in trying the cause, and it has occurred to me that the Attorney or Solicitor-General might select any two gentlemen from that list to report on every application made to him for Letters Patent as to the novelty and utility, and as to the degree of novelty and utility of the alleged invention.

1238. You think that the question of utility is to be considered as well as that of novelty in the preliminary inquiry?—I think so. I think that that is

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W. Armstrong.
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M. E. Smith,
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Q.C.

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the time to consider the question of utility ; it is very ineffective to consider it afterwards ; and if it were considered then, I think it would stop a great many patents which are now granted and which had better not be granted.

1239. You would have the inquiry as at present, before the Law Officers, but with the assistance of two assessors, in the manner which you suggest?—I think that it must be a provisional inquiry ; it cannot be a final one, because you cannot give such a notice as would bring everybody, whose interests are likely to be affected, before the tribunal which has to decide ; and I am not aware that it could be left in better hands than in the hands of the Law Officers, with some assistance, such as I have suggested.

1240. In practice it must always be an *ex parte* inquiry, I presume, because there would be no one interested on behalf of the public?—I think that it must be to a great extent an *ex parte* inquiry ; it would be impossible to give such a notice as would reach all those who might be affected by the Letters Patent to be granted.

1241. And the public has no organization by which it could protect itself habitually against unfounded claims?—There is no such organization, and we all know the difficulties of giving such a notice, even when it is honestly intended, as will embrace the whole subject of the invention, and of course there would be every endeavour on the part of persons who had not really invented a new thing to mislead by the notice which they inserted.

1242. But although the inquiry was *ex parte* you would allow of opposition, if any person was interested in making it?—Yes. I think so ; I think that whatever you do the inquiry will be imperfect ; it must be to some extent *ex parte* ; that is to say, that all those who are entitled to be heard cannot be heard, for it is impossible to give sufficient notice. Then I think that great good is done by having somebody who is interested to watch the proceedings, and to suggest those objections which might not occur to those whose intellects had not been sharpened by competition, or by the fear that the Letters Patent, if granted, might affect them.

1243. Have you had occasion to observe whether inconvenience is caused by a multiplicity of Patents for trifling and frivolous inventions?—Yes ; I think that in several cases in which I have myself been counsel very great inconvenience has arisen from the multiplicity of Patents which an inventor has had to wade through to see that he has not been anticipated. A man who is making an honest improvement where there is a great multiplicity of Specifications existing scarcely knows where to tread without probably encroaching upon some slight improvement which has been previously made, and which may be in itself a very small step in advance of that which has been done before. As far as I have seen every man who makes any change whatever in a machine, which he thinks at all beneficial, takes out a Patent for it, and embraces probably the whole machine, and leaves you to find out where his little improvement is.

1244. (Lord Overstone.) Do you mean that the objection from the multiplicity of small Patents involves evil beyond that of the trouble of investigating the previous Patents ; do you mean that it has come within your observation that there has been practical obstruction to further improvements created by it?—That is not within my own experience, it is only what I have heard from those with whom I have mixed.

1245. (Mr. Grove.) You say that the Patentee describes the whole machine, leaving persons to guess or find out what is improved, but is he not bound by the law as it is to state it in moderately clear terms ; the law says that he shall "particularly" state it?—In a case in which I had the honour to receive the assistance both of yourself and of Mr. Hindmarch we had a great discussion with reference to that point, but I think that the great difficulty in the Patent Law has been introduced by the decisions. I think

that the decisions have left the law very much in this state, that a Patentee may describe a whole machine (or pretty nearly all the parts of it) in which he has made some small improvement, and then say, without any particular claim, "That is my combination." If it turns out that you have infringed any part of it which happens to be the new part which he has made, he says, "You are within my Patent," and there is often great difficulty in finding out what is the particular step of improvement which he has made in, probably, a complicated machine.

1246. The difficulty which your first answer put into my mind was this ; you pointed out a difficulty undoubtedly, which results from the Patentee describing his invention generally, but could any law require him to state it with greater particularity than the present law, is it not rather a want of putting the law in force?—I think that you might require a man to state at the end of his Specification the specific things which he claims as new, and I think that that is only fair to the public, and it would certainly prevent very difficult and troublesome inquiries.

1247. (Mr. Hindmarch.) Has not that more reference to the way in which Specifications are habitually framed, than to the number of Patents granted for small inventions?—I think that there is mischief in both respects. As far as I have seen I think that Letters Patent are granted for improvements which are scarcely sufficient in degree to justify the grant of a monopoly. I think also that Patentees have been allowed too wide a latitude in the mode in which they have framed their specifications, and the way in which they have described what may be their invention, so that in fact the invention is lost in a very large description ; it requires great trouble to find it.

1248. Do you see any difficulty in making the Specifications more precise and definite with regard to what a man claims under his Patent?—There would be some difficulty in it, but I think that that is a difficulty which the Patentee ought to undertake.

1249. Do you think that it is a protection which the public is fairly entitled to receive at the hands of the Patentee?—Certainly.

1250. (Mr. Grove.) The public have that protection at present, but as I understand you it has been practically to some extent neglected. The Letters Patent at present require, upon the peril of the Patent being void, that the Patentee shall particularly ascertain and describe (very strong words) the nature of his invention, but that has been in some degree neglected?—The construction which the Courts have put upon those words has allowed so much latitude that now many Specifications are drawn without claim at all, and you have to find out as well as you can from the language of the Specification what is the invention. I have no objection at all to requiring by positive law that a man shall state at the end of his Specification what are the specific things which he claims.

1251. (Mr. Hindmarch.) Are you not aware that according to the American system that is required in every specification?—I was not aware of it.

1252. (Mr. Grove.) Unless the law was executed in a different way it seems to me that there would be very much the same objection, inasmuch as the Patentee would only at the end of his Specification say, "I claim the combination herein described," or something approaching more or less to that?—I think that the Courts of Law would only want some legislative declaration which would enable them to avoid the difficulties which have already occurred, and to decide with more fairness towards the public than the existing decisions permit.

1253. (Mr. Waddington.) With respect to the preliminary investigation, would you leave it entirely as now to the judgment of the Law Officers, whether they required assistance or not, in judging of the utility and novelty of an invention?—It has occurred to me whether that should be made compulsory on the Law Officers, or left to their discretion. I think that it might be fairly left to their discretion, but I should

imagine that in every case of difficulty the Law Officer would seek assistance.

1254. Have they not that power now if they think it desirable?—Yes, but they have it in an informal way. The Law Officers of course can call witnesses before them, but they have no recognized assessors, or persons who have any status given to them, to whom they can apply. My plan would be that they should take two from the panel of assessors, appointed to assist the Judge in the trial of causes; and I think that if you had a panel of 12 or 15 scientific persons you would establish among them an *esprit de corps*, and a desire to assist either the Law Officers or the courts in the questions submitted to them.

1255. (*Mr. Grove.*) You have stated that you would have the first examination more stringent than at present, but not final, do you mean not final as to the rejection of a Patent, or only not final as to giving a Patent which so to speak could not be subsequently invalidated?—I do not think that I would have finality at all. If by mistake a man's application was rejected, and he really had a good invention, I do not see why he should not make a second application.

1256. I mean a rejection unless he made a further application with better materials, you would make such a rejection final?—Yes.

1257. (*Lord Overstone.*) Would you authorize the Law Officers of the Crown with the assistance of these assessors positively to reject a Patent upon the ground of inutility?—I would. The Law Officers are selected from eminent persons at the bar, and with the assistance of assessors, I think that if they found there was very little utility in a Patent they might then reject it.

1258. Considering that inventions are, generally speaking, in progress, in the actually existing state of knowledge, do you think that a judgment can be safely formed of a conclusive character of what may be the utility of an invention without being aided by the subsequent experience of its operations?—The invention must be perfected before it is brought to be the subject of a Patent. You cannot have a Patent for that which is imperfect; the invention must be complete, and there must have been previous experiment to a great extent.

1259. But are there not many inventions in machinery, and also in chemical science, which you may call in that technical sense complete, but upon the utility of which no person in the existing state of knowledge is competent positively to decide, and which can only be decided by the subsequent experience of their operation?—There may be such cases, but I should think they were rare.

1260. (*Mr. Waddington.*) The extent of utility it would be impossible to decide, but it would be possible to pronounce whether a thing was absolutely and obviously useless?—Yes; there have been some things which have been useless, and which have been abandoned afterwards as useless, but which have been held for a very considerable time in *terrorem* over other inventors and improvers; then, at the last moment, when a Patent is coming into court it is abandoned and disclaimed under the present law.

1261. (*Lord Overstone.*) But is there not also the opposite case, of inventions which have been believed at the time when they were made to be of very little importance but which have ultimately proved to be of great importance?—I think that those cases may have occurred, but I think that they are extreme cases.

1262. Are you not exposed to the double difficulty?—You are giving a man a monopoly for a long period of years, and a monopoly which gives him a very great advantage over all others who are excluded from the use of the thing of which you have given him the monopoly. I think that it is a part of the price which he should pay for it that it should be useful.

1263. Do you not think, at the same time, that if you have given him a monopoly of an invention which is useless, the monopoly is of little value?—It is of

little value in itself, but it is very often of considerable money value and works considerable injustice to honest inventors, who would rather settle, or even take a licence upon reasonable terms, than go to the expense of defending an action which may be brought against them, and which involves very considerable cost.

1264. You would think then, that in the case supposed, although the monopoly may in itself be valueless, it may be of considerable importance in the way of inconvenient obstruction to others?—That is my view.

1265. (*Vice-Chancellor Wood.*) It has been suggested that the Patentee might be required at the end of three or of seven years, as might be judged best besides paying his fee for getting a renewal as he now does, to justify, to a certain extent, his Patent, that is to say, to show that it had been beneficially employed, would you think that a desirable course?—That is a novel course. Practically, that would involve a tremendous struggle at the end of three years.

1266. It might do so, with regard to those inventions which might be thought to be useful, but would it not sweep off a large number of admittedly absurd Patents?—It might.

1267. You think that would be providing a contest which was unnecessary?—I think that it would be providing a contest; you would then, probably, have three contests. You would have something like a preliminary contest before the Letters Patent were granted, one at the end of three years, and then the real struggle in an action.

1268. (*Mr. Grove.*) Do you think that the fixed term which we have of 14 years is better than any modification of it? There are some inventions which are of a comparatively trifling nature, but which come rapidly into commerce; whereas, there are others, which are of a much more important nature, but trade opposition and expense cause it to be many years before they can come into operation. We have now, by the Privy Council, the power of lengthening patents up to 28 years, being double the original term. Do you think that it would be desirable to shorten them at all, and to say that some Patents, for example, should only be granted for seven years?—In my opinion, 14 years is too long. I think that 10 years would be long enough, with the power which the Privy Council has of lengthening the term in cases of great merit.

1269. (*Mr. Hindmarch.*) Do you think that it would be wise to vest in the Lord Chancellor, or in the Law Officers of the Crown, a power to vary the length of a Patent according to the merit of the invention for which the Patent is obtained?—That would be a very difficult sliding scale.

1270. (*Mr. Grove.*) It would be subject to prolongation, it would not be final, it would only be granted, say for seven years, with the power of renewal at the end of the seven years in case the Patent should be thought worthy of it?—I think that it is better to take a fixed term for all, giving to some tribunal (and I do not know that it can be given to any better than the Privy Council) the power to extend the period.

1271. You would make that term shorter than the present one?—I think so.

1272. (*Chairman.*) Have you considered the question whether a change should be made in the mode of trying actions and suits by Patentees?—I have considered that point rather fully, and I have come to the conclusion that the present mode of trial by a jury is very unsatisfactory. I think that a jury are very competent to decide the easy cases, but that they are utterly powerless to deal with the complicated and difficult ones. Where there are long and difficult Specifications to be read through and to be construed and understood, and drawings and models to be looked at, it is quite impossible for 12 men in a jury box to understand either the Specifications, the drawings, or the models; they have no opportunity of inspecting the models, which require to be seen from different points of view, and thoroughly explained and ex-

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amined, yet the jurymen have to decide upon those very models and upon the minute differences which may happen to exist in complicated machinery. The consequence is that trials now frequently become abortive. There was one case before Vice-Chancellor Wood occupying nine days where the jury were unable to give a verdict, and in the same week there was a case before Lord Chief Justice Erle which took six trying days, in which the jury were again discharged without coming to a decision.

1273. (*Mr. Grove.*) And there was a third case at the last sittings, which lasted for two or three days, where the jury could not agree?—Yes; having seen a great deal of the trial of Patent actions by juries I have come clearly to the opinion that it is impossible that any jury can do justice, and in consequence of their being unable to understand the merits they look out for some topic of prejudice upon which they may hang their verdict. If they can be induced to think that a man has had advantages for looking at a machine, or if they think that he has obtained information from a servant they are very apt to be led away by that which they do understand, namely, that there has been some attempt made at all events to get at the means of imitation, and they are very apt to jump at the conclusion that the thing has been imitated. At all events I think that the trial by jury in these cases is most unsatisfactory, and I do not think that justice can be done, particularly as every day Patents assume a more complicated aspect, the machines are more complicated, and the differences are slighter and more subtle.

1274. (*Chairman.*) Are the juries who are employed to try these cases the same class of persons as those who are engaged in ordinary trials?—Precisely. They are taken from the same class of persons, and now from the same panel, except in the city of London. The special jurors are now placed in a panel as the common jurors are, and in all the counties they are summoned, and the jurors to try a Patent cause are taken from the panel which furnishes the jurymen for all the causes.

1275. (*Mr. Hindmarch.*) They are reduced from the same list?—Yes, there is a power in London and Middlesex to reduce.

1276. (*Mr. Waddington.*) There is a power to reduce by the parties in the ordinary way?—Yes. A man who has not a very good Patent but who has some plausible points in his favour will probably strike out the brains of the jury as was formerly the practice in another place.

1277. (*Chairman.*) And practically it may often happen that a question involving the details of a complicated machine is tried by a jury of whom the greater proportion have never seen a machine of any kind at work?—It is very often so. It is an accident, and is sometimes thought a piece of good fortune and sometimes the reverse to find a man on the jury who understands something of machinery, and then a very little knowledge being a dangerous thing, he is often as formidable for what he knows as the others are for their ignorance.

1278. Is there a desire on the part of the jury to discharge themselves of the responsibility of coming to a decision by suggesting a reference to arbitration?—Certainly; I have a case now before me which was referred simply from impossibility of trying it, it was so difficult; and another case was referred to Mr. Lush, a case between Sir Frank Crossley and Mr. Bright.

1279. (*Mr. Grove.*) And there was a third case in which the jury interposed, namely, *Wheatstone v. Wilde*?—Yes, and in the case of *Betts v. Menzies* in which I was engaged, which was tried before Mr. Justice Erle then a Judge of the Court of Queen's Bench; after a trial of six days the jury brought in a verdict, but some of them accompanied it with the remark that it was very unsatisfactory, for that they believed that they did not understand it; and Mr. Justice Erle said upon that, "Well then, gentlemen,

"I am afraid that that remark of yours has rendered "our week's work of no value."

1280. (*Mr. Waddington.*) Has the course ever been adopted of giving the jury the advantage of seeing the models and plans beforehand, as a view is sometimes given in other cases?—I do not think that that has ever been done.

1281. (*Lord Overstone.*) Your impression is that trial by jury is altogether inapplicable to that class of subjects?—It is.

1282. And you are prepared to suggest some improved form?—My notion is to make as little change as possible. I think that a very good mode of trial would be by the Judges, as at present; that is to say, one judge sitting to try the cause with the assistance of two or three assessors. I think three, to avoid the possibility of the two disagreeing and so there being no verdict. I think a panel of assessors might be established, consisting of scientific men, engineers, chemists, and others, from whom a selection might be made for the trial of the particular case for which they were wanted, and that those should be selected from the panel who were best fitted to try the subject of the patent which was then in contest. I think that they might be appointed to the panel by the Lord Chancellor, aided by the Chief Justices and the Chief Baron or by the President of the Board of Trade. The difficulty would be, no doubt, in the original selection; but I believe, that if you could get 12 or 15 men placed upon a panel of the description I have named, you might select from those for the trial of any particular case three very competent men.

1283. (*Mr. Waddington.*) By whom would the selection be made?—The selection might be made I think very satisfactorily and very easily, a summons might be taken out before a Judge of the court in which the action is brought to select from the list the three assessors, the parties would probably suggest who were the proper persons to take for the trial of the particular cause, and the Judge after hearing what each had to say would make his selection.

1284. (*Chairman.*) You would propose that those assessors should only be paid I presume when they were employed?—That of course is a question of detail, but I think that they should only be paid when employed. The parties would have to pay them liberally, but I think that there would be a great saving of expense even if they were liberally paid, because if you had assessors who were acquainted with the subject matter which had to be tried a vast amount of evidence which is now given really to instruct the tribunal might be saved, and instead of multiplying scientific witnesses, having four or five or even more marshalled on the one side and the other in order that either by the weight of witnesses or by repetition, the jury might be led to the one side or the other, one or two scientific witnesses who would explain the case on each side would be quite sufficient for the purpose, and the assessors would brush away so much which is irrelevant, and so much which, now after five or six days' inquiry, turns out to be irrelevant, that I think a great deal of time and expense would be saved by that mode of inquiry.

1285. (*Lord Overstone.*) With whom would you place the final decision; with the assessors or with the Judge?—What I would propose is this, in analogy to the present system, I would require the Judge to put in writing the questions to the jury which he might think necessary to a decision of the cause in point of fact, and I would require that the assessors should give written answers to those questions, and that their findings upon the matters of fact should be conclusive, and that the Judge upon those findings should deliver his judgment or his verdict, applying the law to those findings of fact, and enter the verdict for the Plaintiff or the Defendant upon the various issues as he might think fit. I would have the Judge's judgment or verdict subject to review in the court above as it now is upon all matters of law, and I would also give the court power to order a new inquiry in

point of fact if the Judge should report that he was dissatisfied with the findings of the assessors.

1286. (*Mr. Waddington.*) Then it would be a jury of three persons acquainted with the question instead of a jury of 12 who know nothing of it?—Yes.

1287. (*Mr. Hindmarch.*) And the majority to decide?—I suggest three. I thought of two, and I think that I mentioned that number in the House of Commons, but, upon further considering the matter, I think that it would be better to have three, and that the majority of the three should decide.

1288. (*Lord Overstone.*) Do you think that there would be any serious difficulty in finding assessors who could be relied upon as impartial, free from personal prejudices, and free from the prejudices which exist upon scientific subjects as well as upon other subjects?—I think that that is the principal difficulty, but I think that they might be found, and I think that if they were once found and placed upon a list they would feel a desire to do that which was right, and would acquire as a habit the sense of deciding the real questions without reference to persons and things as trained Judges now do. It is almost impossible to get any persons who have not been trained to be Judges to decide regardless of the persons and subjects with whom and with which they have been before dealing; but I think that the gentlemen who might be placed upon a panel of this sort would very soon come to decide quite fairly and quite impartially, and with a sense of the responsibility which certainly would attach to them.

1289. Do you think that it would be essential that they should not be themselves persons engaged in practical pursuits?—I think that if they could be found it would be most desirable that they should not be engaged in Patent matters, and I think that it would be indispensable that they should be persons who would not give evidence upon any Patent matter.

1290. (*Chairman.*) Would it be easy to find men conversant with questions of this sort who were at the same time entirely free from all business connections, and who might, therefore, be expected to be unbiassed?—That is the difficulty, but I think that they might be found. I think that you would not require a very large number, 12 or 15, in my opinion, would be sufficient, and I think that you might find those men.

1291. (*Mr. Waddington.*) They must have a very large remuneration, I think, to make it worth their while to perform the duty. If they were neither to be witnesses nor to carry on business of their own they would have to confine themselves to the duty of assessors?—I did not mean that they should not carry on business of their own, because a great many of those who are at present engaged on Patents carry on engineering and other business; it is only occasionally that they are brought into the Patent arena. I would rather that they should continue to carry on their profession unconnected with Patents.

1292. But there is hardly any manufacturing business in which some Patents are not continually in use, is there?—But a great number of civil engineers, analytical chemists, and so on, carry on business which is not a manufacturing business.

1293. Civil engineers have a very lucrative business as witnesses sometimes, have they not?—Yes; but in other matters besides Patent causes.

1294. (*Lord Overstone.*) Would you give to the litigating parties any power of objecting to an assessor?—Yes, in this way; both the litigants should go before the Judge, and together with him, select the three assessors, and of course they would then have power to object to a man, either from his antecedents, his connections in trade, or from his being intimate with the persons who were connected with the other side; and all those objections might be made, which of course would be listened to.

1295. Would you give the litigating parties a power of peremptory objection, or merely of submitting to the Judge the grounds of their objection?—I see no objection to giving them the right of peremptory ob-

jection, say to a limited number, so that the right should not be subject to abuse; and that after they had challenged one or two, then they should challenge for cause. I would leave the analogies to the Jury system as near as possible.

1296. (*Mr. Grove.*) The advantage of a peremptory challenge is this, that persons might frequently have a very strong objection to a member of a panel, and yet might not like to state it openly?—Yes.

1297. He might be a party mixed up with them collaterally in trade, and outwardly on friendly terms with them, and against whom they might not like to state their objection orally. You can only provide for that by something in the nature of a peremptory challenge?—I think it would be desirable that there should be power of peremptory challenge.

1298. Supposing that you have a rather small panel, say 12 or 14, as you have suggested, and supposing these to be engineers or advising chemists, how would you get over this difficulty; that nearly all such persons have a large, what may be called *clientelle*, a number of individuals whom they advise, and advising whom forms a source of income to them. If a panel of that sort were made would they not be likely to have a very large number of clients whom they would be constantly advising, and so be very much trammelled in performing anything like judicial functions?—I think not; I think that you might get gentlemen who if they were upon a panel, and felt the sense of responsibility, would say "I have advised in this case" and therefore should not be selected to try it; just as a Judge says after he is on the bench, "I have advised in this case," and withdraws.

1299. A Judge is removed from that position; he does nothing else than act as Judge, and he receives no other emolument but a fixed and handsome judicial income; but I suppose that you could not give to these gentlemen an income which would enable them to give up all professional occupations, and therefore they would be concerned in earning money in other ways, which must necessarily affect their interests?—I think that you might select gentlemen who were perfectly competent to decide all Patent cases, and who were unconnected with the practical working of Letters Patent, and with the business of advising Patentees. If any of those gentlemen, who had been so engaged, were desirous of retiring from that branch of business, there would be an opportunity of their becoming some of these assessors.

1300. I was not speaking exclusively of their advising Patentees, but of their being mixed up with commercial business, either as advisers or partners, and receiving a large income from it, which would, necessarily give them an interest ramified into a large number of manufactures?—It is very difficult to get any tribunal which is perfect. You cannot get a jury without having the prejudices of the men who are brought into the jury box; they of course carry all their prejudices and all their associations with them, you take them at random, but I think that you might select men who would decide very impartially and very fairly, and there would be three; you would hardly find three men who would be biassed in a particular direction. I think that when a man is conscious that he is one of a body whose province it is to assist in administering justice, the desire to do justice will become a habit in his mind. The very man who, as a witness probably, has been warped, would become perfectly straight when he was acting as an assessor; and when he knew that he was depended upon for an honest and an independent opinion, and he would be checked by the others.

1301. (*Mr. Waddington.*) And by experience they would acquire the habit of applying their minds to the questions, and would improve very much?—I think so. I think that scarcely anybody makes a good Judge who has not been trained, either through the bar or the bench, because very few men have the power of looking at what is the point of the case in the abstract, and apart from the persons and things which surround them.

M. E. Smith,
Esq., M.P.,
Q.C.

17 Feb. 1865.

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Q.C.

17 Feb. 1863.

1302. (*Chairman.*) You consider that they would be acting more under a sense of responsibility if they had an active part in the decision, rather than if they were simply acting as irresponsible advisers to the Judge, with whom the decision should rest?—I think so. I think that if the responsibility of the decision rested with them you would find that their sense of right would prevail, and that you would generally get a correct decision.

1303. (*Vice-Chancellor Wood.*) Do you suggest this as a separate Court entirely devoted to this subject, or would you carry it on under the present system?—I propose to carry it on under the present system. I rather object to a special Court for the purpose.

1304. (*Mr. Waddington.*) And there would not be business sufficient for a special Court, would there?—I do not think that the mere trial of disputed matters would be enough for a single Court. If you gave the Judge of that Court the power of preliminary investigation there might then, I think, be sufficient work.

1305. (*Chairman.*) Would there not then be the great inconvenience that in some cases the same authority would be sitting upon an appeal from himself?—There is that difficulty, and I should certainly not recommend the entrusting any Judge with the absolute and final power of disposing of these important questions; he must be subject to some appeal, and the appeal must of necessity be to the regular Courts. I cannot myself see the desirability of establishing a special Court and a special Judge when you have the machinery already existing amongst the ordinary Judges. My scheme is very little more than substituting assessors for a jury.

1306. (*Mr. Waddington.*) I believe that there is very little individual responsibility among jurors now, but with the number of three there might be something of that sort?—With the number of three there would be a strong sense of responsibility, they would know that their fellows were looking on, and that the whole body would be disgraced if a man shrank from his duty or was withheld from his duty by private considerations.

1307. (*Chairman.*) Have you heard anything of the complaints which have been frequently made before this Commission that the Patent business occupies so much of the time of the Judges as to interfere with other trials?—Yes; there is very great complaint that the Patent causes stop the other business. For instance, the sittings in London, where the great commercial business of the country is tried, occupy from 12 to 14 days. If the sittings are commenced by a long Patent cause, which takes six or seven days to try, the commercial causes are of course postponed, and two Patent causes might occupy the whole sittings.

1308. (*Vice-Chancellor Wood.*) You conceive that your mode of trial would diminish that very much?—My mode of trial would diminish that, because the assessors would be selected from the special panel, and you would tell off a Judge to try these causes with the assessors.

1309. Would you have these causes going on at the same time as the others?—They might go on at the same time, or at any time when it was most convenient; they need not go on at the same time; that would be one advantage; it might be done in term with very considerable advantage; that however is a matter of detail which might be arranged

by the Judges; but the effect would be that you would get all the Patent causes out of the list of causes which are tried by juries.

1310. (*Chairman.*) As I understand you, you propose that from this same list of assessors who are to assist in the trial of Patent cases some should be selected who are to help in deciding, or to advise, upon the decision with regard to the first granting of Patents?—Yes, I think that that might be usefully done. The Law Officer might select the two or the three whom he thought out of the whole list best fitted to assist him in the particular case.

1311. Do you think that there is no risk that, in the event of so much authority in deciding Patent causes being given to a limited body of men, chosen as you propose, certain ideas or prejudices of individuals upon scientific subjects would become well known, and become matters of complaint?—It might be so, but I think that the list would be large enough (12 or 15) to prevent there being any practical difficulty.

1312. (*Vice-Chancellor Wood.*) I suppose that you would have a superannuation clause also?—Yes.

1313. (*Mr. Waddington.*) And it would probably be open to the Lord Chancellor to add to the list?—Yes, I think so. What has been suggested in the question of the noble chairman is an inconvenience which you must always have. As regards the 15 judges, although they do their work so excellently well, yet of course there are certain judges who lean in one direction, and certain judges in another, not because there is any partiality in the matter, but simply from a habit of mind. You cannot avoid that in any body of men.

1314. (*Chairman.*) Have you considered the question of compulsory licences?—I have. I have not been able to suggest to my own mind how that could be satisfactorily imposed on the Patentee. It involves of course the question of the amount of royalty; that must vary indefinitely.

1315. (*Mr. Waddington.*) It has been suggested that it might be fixed in the first instance, and imposed as a condition upon granting the Patent that the Patentee should let it for a certain sum?—All the objections which Lord Overstone suggested to giving the Law Officers any power on the question of utility would press still more strongly upon the power to fix the licence money at the very inception of Letters Patent before you really knew the whole value of the invention.

1316. It would be impossible to fix the real value—it must be a good guess I suppose?—It would be a guess, and you would be giving a man a property, and allowing another to deal with it for him.

1317. (*Chairman.*) Would you not rather put it in this way, that to grant Patents with a restriction of compulsory licence is, in fact, not to grant a monopoly, but simply to give to a man a certain definite amount of royalty upon the use of his invention?—That is so. It is very much like saying, you shall get so much from the public for your invention and no more, in fact, you take away the notion of property.

1318. (*Sir H. Cairns.*) Would it not also involve the necessity of fixing a price for the patented article, for the Patentee might be entitled and be disposed to manufacture himself all that would be required?—It would be so.

1319. (*Chairman.*) Is there any other point to which you wish to call the attention of the Commissioners?—No, I think not.

The witness withdrew.

Adjourned to to-morrow at half-past four o'clock.

Wednesday, 18th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
SIR W. ATHERTON, Q.C., M.P.

HORATIO WADDINGTON, ESQ.
W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q.C.
W. E. FORSTER, ESQ., M.P.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

Mr. RICHARD ROBERTS examined.

Mr. R. Roberts.

18 Feb. 1863.

1320. (*Chairman.*) You have been in considerable business as an engineer for many years?—I have.

1321. In the course of your business have you been led to consider the question of Patents, and the law affecting them?—Yes; I have had not only to consider it, but to pay for it.

1322. Have you had a good deal to do in defending the Patents which you have taken out?—No; only in one instance.

1323. Have you had some experience in resisting Patents that were claimed by other parties?—Often.

1324. Have you considered at all the question of the cost of obtaining Patents, and if so, do you consider it too large or too small?—I think it is much too large.

1325. Do you think it would be an advantage if it were reduced?—I think so.

1326. Have you considered the question, whether the payment ought to be made in one sum, or by annual instalments as some persons have proposed?—I think if the payment were smaller, and made in one sum, it would have a better effect, because, although small, it would be considerable to some men, and they would have to consider well before they jumped into it.

1327. Would you have the payment made in the first instance?—I think so, if it were in one sum.

1328. And no subsequent payment?—No.

1329. Do not you think there is any advantage in the present plan by which useless Patents drop out after a certain number of years, because the holders of them do not choose to incur the extra expense of continuing them?—I do not think there is any advantage in that plan. I have allowed, I think, five to drop out—either four or five—and I think they are quite equal to anything I ever did.

1330. Rather than incur the extra expense of a second Patent?—Yes; we know very well that if we continue a Patent, we shall have to continue to pay but we are not sure that we shall ever get anything for it. The most paying Patent that I ever had was nine years before it paid for itself the cost.

1331. What was that, the self-acting mule?—Yes; and there was another thing, the planing machine. I had no Patent for it, for I could not afford it; but it was nine years before we made more than two, although everybody who came was allowed to see it, and hundreds saw it; some of them were the most sagacious men we have, such as Fawcett of Liverpool, and Hick of Bolton; but I had a difficulty in inducing them to have the planing machine, which I urged them to have; some people will not buy new things. I have an invention now which has nearly run out, and I have not made a penny by it, and I am not likely to do.

1332. (*Lord Overstone.*) By new things do you mean things untried?—Yes.

1333. Then, how does a Patent ever come into operation if people will not try an untried thing—how does it ever become a tried thing?—Some person or other sees the merit of the thing, and tries it. The one I refer to is on too large a scale for ordinary people to try; it is an improvement in ships; it has run more than ten years.

1334. (*Chairman.*) What you have stated, I think, comes to this, that if a man goes to considerable expense to carry out his machinery, he does not want to have to take it down and put up another kind of machinery; and he would rather that neither he nor

any of his neighbours should adopt the new plan?—Just so.

1335. Do you think that the present term for which Patents are granted is not long enough to give remuneration to the adventurer?—It will rarely give more than four or five years, and then, however successful the thing may be, the man will not secure a great deal in that time; in the first year a very little, in the second year a little more, and so on.

1336. (*Lord Overstone.*) Do you object to the system of eliminating useless Patents by successive payments upon the ground that the period assigned is not long enough, or upon the ground that it is an essentially unsound principle of action?—I think it is rather that the Patentees are not persons to pay an exclusive tax, and they are more generally poor men, managers of works, who are most likely to invent.

1337. (*Chairman.*) You would wish them to obtain their Patents at less cost in the first instance, and have nothing to pay for them afterwards?—I think that would be best.

1338. (*Lord Overstone.*) In that case by what means would you propose to eliminate useless Patents?—I do not think it matters about them, for if they are useless they will not meddle with the others.

1339. Would you grant a Patent to every applicant, and leave them to become dormant from the fact of their being inapplicable to any useful purpose?—Yes.

1340. You would trust entirely to that principle?—Yes.

1341. (*Mr. Grove.*) But do they not occasionally meddle with you—do not Patentees of useless inventions frequently threaten litigation, and cause litigation and expense?—They may threaten.

1342. Do not you find that people actually embark in litigation upon Patents which are frequently of small utility?—Yes.

1343. (*Chairman.*) I think you have been speaking chiefly of Patents for engineering and mechanical matters, where considerable outlay must be incurred in the first instance before the invention patented can be set up?—Yes, I refer to those more than any other.

1344. When you say that Patents do not pay as a rule for nine or 10 years, you do not speak of all classes of Patents?—No; because in the case of an improved button, a person does not mind trying one suit of clothes with new buttons on, every one being of the same mind, and the Patent pays very well.

1345. (*Lord Overstone.*) Should you say generally that although these Patents afterwards become of importance and value to the public, the majority of them do not become productive until after the lapse of a longer period than seven years?—I think that hardly any of them become productive within seven years.

1346. Do you think that the present state of the law requiring successive payments at the end of three years, and at the end of seven years, has practically destroyed any Patents that ought to have been continued longer in existence?—There are four or five of mine that have gone through that.

1347. Do you think that you have sustained serious injury by the obliteration of those Patents?—I cannot say for that, but when you have secured it you do not like to part with it, and it has cost me a good deal; there are drawings and specifications, and all those things to prepare. A Patent costs much money besides the office fees.

Mr. R. Roberts.

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1348. In the cases of those Patents to which you have referred, did you abandon them in consequence of the heavy payments you would have been compelled to make under the provisions of the law?—Yes.

1349. Those payments could only amount to 160*l.* or 170*l.* during seven years?—150*l.*

1350. Then the Patents so abandoned could not, in your estimation, have been of value beyond that extent?—I know that I should have to pay those sums, but I do not know that I should ever get anything for the Patents on account of the difficulty of getting the inventions introduced.

1351. (*Chairman.*) You think that men are willing to sacrifice a considerable prospective advantage which they do not feel sure about rather than face the certainty of having to make a comparatively small payment?—Yes.

1352. But has it not been your experience that an inventor so circumstanced would go to some capitalist and offer him a share of the advantages on condition of his providing the money for the payment?—If he knew of one perhaps he would, but there is a difficulty in finding such capitalists.

1353. (*Lord Overstone.*) Do you mean that those payments become an obstruction to a Patentee on account of his inability to make them, or on account of his unwillingness to make them, thinking that the payments are more than the value of contingent interest in the Patent?—It was my case latterly.

1354. (*Vice-Chancellor Wood.*) When you have reduced the fee, as you think it ought to be reduced, to a lower one, suppose half, it would still be, would it not, a boon to many inventors to be able to pay only half of that fee down, for say a term of four years, and then to pay the remaining half?—Yes, no doubt it would to a very great many, but I want to have the payment to stand in the way of those who would rush at a Patent upon the first idea, without giving it fair consideration.

1355. That would be one way of checking useless Patents; but with regard to the inconvenience that you referred to just now, namely, the inconvenience of useless Patents, have you never, in your progress of invention, found yourself impeded by having, as one witness described it, to creep round a Patent of a very unserviceable character?—No; I never found any inconvenience of that sort, there is always another way of doing the same thing.

1356. (*Lord Overstone.*) Your belief is that it would be desirable to increase the amount of the first payment with a view to check the impetuosity of Patentees, and also with a view to diminish the necessity of Patentees keeping up their Patents?—I do not know to what amount you would suppose the reduction to be brought, because there are many men who could not, if they would ever so, pay the first amount, they would have to apply to a capitalist, and then without security a capitalist does not like to advance anything without they have the Patent already secured.

1357. Our object is to ascertain your opinion as to the mode in which these payments ought to be dealt with. Are you of opinion that the first payment should be increased with a view to put some further check upon the impetuosity of applicants for Patents in the first instance, and that the subsequent payments should be diminished in order to facilitate the maintenance of Patents when once obtained?—I can hardly answer that question, for I have not given it sufficient consideration.

1358. Is it your opinion that the first payment to be made upon obtaining a Patent should be increased beyond its present amount?—I think it would bear being increased beyond its present amount provided there was no further sum to be paid.

1359. You wish the payment to consist of one sum at the outset?—I think it would work best in that way.

1360. There is another question that we have to consider a good deal here, and that is, whether a Patent ought to be granted with or without any pre-

liminary inquiry as to its novelty and as to its utility. What is your opinion upon that?—I have been always opposed to preliminary inquiries until lately, when I got a clause put in at the Inventors' Institute, of which I am a member—but that the committee that should make the preliminary investigation should not have the power of preventing an inventor from taking his Patent out—with that condition I quite approve of preliminary inquiries.

1361. If it is to be a preliminary inquiry which if it goes against the Patentee, does not prevent him taking his Patent out, of what use would it be, do you mean that there should be an appeal?—No; only to give him their opinion that the Patent is not a valid one; it can only be an opinion, for the cleverest men in the world cannot say whether it is really good or bad always.

1362. (*Vice-Chancellor Wood.*) You would suggest that those who conduct the preliminary inquiry should give their advice?—Yes.

1363. (*Chairman.*) And give the inventor a formal right to apply for a Patent and nothing more; but you would accompany that in every case with a statement on the part of the Law Officers, or those who acted for them, as to whether, in their opinion, it was likely to be good or not?—Yes, and that should be printed with the printed Specification; the fact of their decision.

1364. (*Lord Overstone.*) Do you use the word "decision" deliberately, because I understood your view to be that the opinion of the Law Officers of the Crown should be an opinion only, and not a decision?—No, I mean that it should not be a veto upon his Patent.

1365. (*Chairman.*) And an unfavourable opinion, where they entertained it, should be expressed in such a manner that it might afterwards be made evidence in a court of justice?—Yes.

1366. (*Lord Overstone.*) I presume you would consider that such an opinion given by the Law Officers of the Crown, unless it were given with the aid of competent advisers, would be rather a dangerous opinion than a useful one?—I think that very few persons would pursue their Patents further, having been informed that it was either old or useless; very few would, but there might be some cases.

1367. The object of my questions is to draw your attention to this fact, that such an opinion would be technically given by the Law Officers of the Crown; but unless the Law Officers acted under the advice and direction of some very competent persons, the opinion ought not to be of much value, and would not be of much value?—If the advisers were small in number, and they were obliged to attend to all cases, I think the opinion would be worth something; but if the number was large, and they were at liberty only to come when they pleased, and very few would attend, it would be worth very little.

1368. What kind of advisers to guide the Law Officers of the Crown would you suggest?—I think there ought to be persons who were very conversant with every branch of art.

1369. (*Mr. Forster.*) I understood you to say that you thought the opinion so given might be of advantage in a court of justice; but for what purpose would it be so in the defence of a Patent?—No; against it if it were bad; it might be in defence, or the contrary.

1370. You think it should be an opinion which should be used to the prejudice of a Patent when afterwards attacked?—Yes; I know that persons have taken out Patents, and have persisted in doing it, when they have been told by very competent authorities of the valueless character of them. I know of one instance in which a person was shown the very article that he was producing, that had been done and presented to the Society of Arts every year for a number of years consecutively.

1371. (*Chairman.*) I need hardly ask you whether that altered his intention with regard to taking out a Patent?—No.

1372. I presume he found the difference was small ?—He went to another Patent Agent ; the first Patent Agent to whom he applied showed him the things, but he went to another Patent Agent, who took out a Patent, and I believe he made money by it afterwards ; it was for making engravings from metals.

1373. Have you in the course of your business experienced any inconvenience from having to deal with other people's Patents ?—I never had to deal with them much ; very little.

1374. Have you ever heard of such a case as this : that a firm engaged in a particular branch of manufacture will buy up all the Patents that they can get hold of connected with that branch of business, so that it is almost impossible for any other manufacturer to use any of the known processes without putting his foot upon some one of those Patents, and then being threatened with a prosecution ?—I have heard of such cases, but I have no particulars about them. There is, for example, the permanent way, they have been doing something in that way, I believe.

1375. You have heard of such cases, but they have not come within your experience ?—No.

1376. (*Vice-Chancellor Wood.*) You have not suffered in any way ?—No.

1377. (*Chairman.*) You are aware that many Patents are now taken out for advertising purposes, and taken out for very trifling and insignificant inventions, involving no real principle of novelty ?—Yes.

1378. Do you think that Patents of that kind ought to be refused, or would you allow them to be taken out freely as at present ?—I would allow them to be taken out freely, and that is one reason why I would rather that the payment should be made first, that they may be sure they will have to pay.

1379. Is not that coming back very much to the system that existed before the reform in the Patent Laws 10 years ago, when Patents were so costly that practically no man without capital could take one out ?—To some extent it is, but I do not want the sum to be larger ; the cost of a Patent is more to me now than it was under the old law.

1380. How is that ?—Because it is not always necessary to take one for the three kingdoms ; a Patent costs about 175*l.* now.

1381. Not in the first instance ?—No, but it does ultimately.

1382. Including the fees to the Patent Agents, I suppose we may put it at about 50*l.* in the first instance ?—No.

1383. Including, as well as the legal expenses, those to which you are necessarily put in consulting Patent Agents, what would it be ?—40*l.* or 50*l.*, I daresay.

1384. (*Vice-Chancellor Wood.*) A Patent for England, I think, before cost about 160*l.* ?—I think 112*l.* for England, and a little less for Scotland, and little more for Ireland.

1385. (*Chairman.*) You do not think that the multiplicity of Patents for things which are of no real value as inventions is any inconvenience to the public ?—I do not think it is, because the ideas which they throw out may be made use of by somebody else.

1386. Might not that be done if there were no Patents taken out, and done in a much better manner ?—If you could get every man to speak out ; but they will not do that.

1387. You think that a man will not produce his invention to the public unless he is protected by a Patent ?—I think that it would not be made known to the public.

1388. (*Lord Overstone.*) Do you think that Patents in themselves useless, are nevertheless often valuable in suggesting to other persons ideas which would probably not have occurred to them otherwise ?—Yes, certainly.

1389. (*Vice-Chancellor Wood.*) Have you defended actions by Patentees yourself ?—Yes.

1390. I presume you defended some of those because you thought the Patent was void from being

useless ?—I do not recollect any particular case now, but I have been on both sides.

1391. When you have defended an action, I presume that you thought the Patent a bad one, or you would not have defended it ?—Yes.

1392. So far you were put to inconvenience by having to take part in such an action ?—I have not defended it on my own account ; we defended, in one instance, the self-acting mule.

1393. (*Mr. Hindmarch.*) You used the term "defend," I believe, in the sense of defending a Patent ?—Yes.

1394. (*Vice-Chancellor Wood.*) Have persons sometimes brought actions against you for infringing their Patents ?—Not against me.

1395. (*Mr. Grove.*) You have told us of the difficulty there is in getting an invention taken up by the public ; if there were no Patent Law do you think the difficulty would be so great that many inventions would be lost on account of persons having no stimulus to carry them out ?—If a person had no prospective advantage from his Patent he would never go to the expense of perfecting any invention. Take the case of the self-acting mule ; we should not have spent thousands upon a thing of that kind for the benefit of others ; and there are many inventions as to which persons have to expend very large sums, for there are many things that cannot be seen through all their parts without experiment.

1396. (*Mr. Forster.*) You do not think that if you had gone to a large capitalist and pointed out to him the advantage it would be in carrying on his trade to apply the self-acting mule, the advantage that it would give him without a Patent over his neighbours, that that would have been inducement enough ?—No ; because he would only have my word for it.

1397. You do not think that you would have been able to convince any capitalist, and so induce him to advance the money requisite to enable you to gain a Patent ?—Capitalists would have been very unwise if they advanced money too readily in that way.

1398. (*Lord Overstone.*) You mean that no one capitalist would spend his money upon perfecting a machine, which machine, when completely perfected, would be equally at the command of his competitors as of himself ?—Surely.

1399. (*Mr. Hindmarch.*) At the same time, it must be uncertain whether it would ever be perfected at all ?—Yes, very doubtful.

1400. (*Mr. Grove.*) It requires the self-interest of the Patentee, so to speak, to force it upon the public ?—Yes.

1401. (*Mr. Forster.*) You do not think that the advantage of being the first person to possess a thing would be enough to compensate without an exclusive right ?—No.

1402. (*Lord Overstone.*) That would depend, I presume, upon the amount of outlay that was requisite to complete the invention ?—Yes, in a great measure.

1403. (*Chairman.*) In point of fact I take it that the first possessor of a new machine would probably have it in the most imperfect form, and it would probably be the man who stepped in some two or three years later, after having observed the working of the machine as already set up, who would produce it in the most perfect form ?—I do not know whether that would be the case or not. Whilst it was in the hands of the Patentee, and he had the exclusive make, I think he would be likely to improve it more than anybody else.

1404. (*Mr. Hindmarch.*) Suppose he had not the Patent ?—If he had not he would not have the same interest in pursuing it.

1405. (*Mr. Grove.*) Would the absence of Patents for inventions, in your judgment, have any effect in producing secret trades, or have you had any opportunity of judging whether non-patented inventions are used much in secret trade ?—I do not think there is much secret trade, but I know this, that no trade can be kept secret long, a quart of ale will do wonders in that way. I can give the Commissioners one instance.

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A party had some power looms and he thought very highly of them, but he had made an improvement and was about to get about 300 or 400 of them put up, he sent his patterns from Staleybridge to Manchester to have castings, and he sent a box with the patterns in, in order that they might lock them up every night, but the day after they were sent to Manchester a person came from Staleybridge to me and told me of this fact, but he said, "You shall have the first set if you like to have them," but I declined.

1406. (*Mr. Grove.*) Still there are some instances even now of trades being kept secret, and never being discovered?—There may be.

1407. (*Mr. Hindmarch.*) With regard to the manufacture of machinery, I believe it is very difficult to keep that secret?—Yes, especially when the objects are large.

1408. (*Chairman.*) With respect to trying suits instituted by Patentees, do you think that any change in the mode of proceeding would be advisable?—I should think it would be better if there was a different court where the jurors would be likely to know more about the subjects they were trying; for, they are often brought before courts that know nothing about the matter and tried. I remember a lace machine case being tried at Westminster, and a combing machine case being tried down at Chelmsford.

1409. That was a case, or it may have been a case, in which very complicated questions of machinery would have been tried before a jury who perhaps had never seen a machine in operation of any kind?—Yes.

1410. (*Mr. Forster.*) You do not think that the knowledge which might be possessed by a barrister and by a judge would compensate for the ignorance of the jury?—No, I think not; and, in one of the two instances I have referred to, the Judge knew as little about it as any man in Court, but there were six of the jurors who really were clever in that case, they had inspected the machine over and over again, and made themselves quite familiar with it.

1411. (*Vice-Chancellor Wood.*) What would you recommend instead of a jury?—A jury of men selected from the trade or profession.

1412. Would you have a permanent body of scientific men, or merely persons selected for the occasion?—Men taken for the occasion.

1413. Would it not be difficult to find them, if they were engaged in the same business, unprejudiced either in favour of the plaintiff or the defendant?—I should think not.

1414. (*Mr. Grove.*) Would they be liable, not to prejudices as to a particular litigant, but to prejudices arising from their previous experience?—You must always be liable to difficulties of that sort with all classes of men.

1415. You think there would not be more difficulty in such a case than in any ordinary case?—I think not; they would hear the subject explained by a barrister.

1416. (*Chairman.*) Do you think it would be advisable that such assessors or assistants to the Judge should only advise him, or would you have them pronounce a decision like a jury?—I think that they should give their decision like a jury, as to whether there was an infringement or not, if it were an action for infringement.

1417. (*Mr. Forster.*) How many of them do you think it would be advisable to have?—I think the number should not necessarily be large, perhaps half-a-dozen, or, if an odd number was better, five.

1418. Would it be an advantage that there should be a certain number, say two dozen of those persons, perfectly competent to be assessors, giving to each party the power of challenging anybody who they thought might be partial or prejudiced?—I have not thought very carefully upon that subject.

1419. (*Vice-Chancellor Wood.*) Would you let a

majority decide, or require them to be unanimous?—I think it is not necessary that they should be unanimous, but I think that every man should write his opinion down. I think that would be a great check upon their honesty or dishonesty.

1420. (*Chairman.*) Have you considered the question as to whether it would be better to have a special Court in which to try Patent cases, or whether they should be tried by any of the Judges with the assistance of such assessors as you propose?—I think a separate Court would be better. I know that to be pretty generally the opinion entertained by those who have considered the subject.

1421. Would it be possible to make the granting of licences for the use of patented inventions compulsory?—I do not see much necessity for it. All those who have patented inventions are anxious enough to grant licences, and generally on reasonable terms.

1422. You do not think that, in practice, it often happens that a man prefers to work his own invention exclusively, thinking that he shall make a great profit by so doing, and so locking up the advantage from the rest of the trade?—I do not think it does.

1423. You think that that may be left to a man's own feeling of self-interest?—Yes, I think so.

1424. Is there anything else connected with this subject that you would like to state to the Commission?—I do not think of anything.

1425. (*Lord Overstone.*) Looking at the whole question generally, do you think that the existing state of the Patent Laws inflicts any grievous injury upon the public?—I think it does.

1426. And you think so principally upon the two grounds which you have stated, the incompetency of the present Courts and the bad arrangement as to the preliminary payments?—I think that the payments have much to do with it. Inventions are kept back, and I think there is much injury suffered from that.

1427. Upon those two grounds you think that there is really a strong demand on the part of the public for reform?—Upon the first of the two, certainly.

1428. (*Chairman.*) You adhere to what you said just now, that you do not know of any inconvenience that is caused to the public by the multiplicity of Patents for trifling inventions?—I do.

1429. You do not believe that any injury arises in any way?—I do not think I should interfere with the small Patents, but let them take their own course.

1430. You think that they will mostly die a natural death?—Yes. With reference to the cost keeping back Patents I would say, that I have a list of something like 100 inventions that I should have patented 30 or 40 years ago, but for the cost.

1431. (*Lord Overstone.*) Do you think that the public have suffered an injury in consequence of those inventions not having been patented?—I think so. I think I could mention one by which many lives would have been saved if I had had a Patent for it.

1432. (*Chairman.*) You mean, that not being protected by Patents it has not been worth your while to perfect those inventions and send them out into the world?—This one is perfected, for it happens that I have a model for it. I very rarely make models, but I had one made for this. It was made many years ago. I invented it in 1830, and I mean to say, that if it had been put into practice, things would not have happened which have happened, and which have caused the loss of many lives, as connected with railways.

1433. (*Lord Overstone.*) Am I to understand from your last answer, upon the supposition that the payment with regard to a Patent was arranged according to your plan, that there are various inventions now within your knowledge which would be brought forward, but which are at present in concealment?—As far as my own inventions are concerned that is the case.

The witness withdrew.

Adjourned till Tuesday next, at half-past 4 o'clock.

Tuesday, 24th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
HORATIO WADDINGTON, ESQ.

W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q. C.
WILLIAM FAIRBAIRN, ESQ.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

MATTHEW CURTIS, Esq., examined.

M. Curtis, Esq.

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1434. (*Chairman.*) You have had considerable experience, I think, of the working of the Patent Law ?—I have.

1435. In the course of your business in Manchester ?—Yes.

1436. Have you considered the question whether the cost of obtaining Letters Patent is excessive or not ?—I think the present cost is not excessive. The only alteration which I would suggest would be to reduce the payment for sealing the Patent. I think it is 20*l.*, instead of which I would have it 5*l.* on obtaining provisional protection, and 10*l.* afterwards.

1437. Making it 15*l.* instead of 25*l.* ?—Yes ; it is 25*l.*, if I remember rightly ; but, at all events, if the Patent Fund could lower it to 15*l.* for the entire charge for the first three years, that I think would be quite low enough.

1438. You may take it, I believe, that the official cost of obtaining a Patent in the first instance is now 25*l.*, and that the attendant expenses, if a Patent Agent is employed, come to about as much, making 50*l.* in all ?—As a rule they do.

1439. Do you think that a reduction from 50*l.* to 40*l.* (for that would be the whole of what you propose) would make any considerable difference in the convenience to parties ?—I think to some parties it would be a matter of great convenience, especially to working men, or persons of small means, who when bringing out a Patent, find it inconvenient to be called upon to pay a large sum at the first onset in addition to the cost of experiments. When a Patent has been worked for three years, if it is a matter which is worth granting a Patent for, I apprehend that in most cases the party can find some one who will be prepared to support him with the 50*l.*, and the like at the end of the seventh year with the 100*l.*; and there are advantages in favour of retaining those amounts, inasmuch as it makes the party, when he has to pay 50*l.* or 100*l.*, think whether that for which he is paying it is worth the money. It is very desirable that we should not have Patents on the books for that which is comparatively valueless ; and the estimate which I should put upon a man's opinion of the value of a Patent would be whether he thought it worth his while to pay the 50*l.* or the 100*l.*

1440. Do you think that there would be any advantage in making the payment by instalments instead of as at present in one sum ?—I think that it would be very objectionable, on several grounds ; the first is that it would materially add to the cost ; for instance, parties in Manchester, or in the provinces, have to send their Patents up to London to be stamped, for which the charge, as a rule, is three guineas, in addition to the payment of the stamp ; some of the Patent agents, I believe, do it for two guineas ; but generally the charge is three guineas. If there were this addition every year it would become a serious tax, besides which, the great advantage which I consider the present mode of payment possesses would be done away with ; a man would say, "I will pay 5*l.*, or I will pay 10*l.*," and probably he would continue it ; but I want to come to a point at which a patentee decides whether the invention is worth 50*l.* or whether it is worth 100*l.*, and if it is not worth that I think it ought to be swept off the list of Patents.

1441. (*Lord Overstone.*) Do you think that any public inconvenience now arises from the vast number of Patents which are taken out, a large portion of

which are not of long duration ?—There may be some inconvenience in granting a multiplicity of them, but the difficulty is to know how to diminish the number without injuring either the public or the inventor.

1442. If you diminished the cost of first taking out a Patent, would not the effect of that necessarily be still further to increase the number taken out ?—The effect might be to increase the number, but the amount which is now paid, say 25*l.*, for stamps for a Patent is so very small comparatively that I do not think you would multiply the number very much by making the amount 15*l.* ; it might be so occasionally, but I think in those cases where it did occur it would be on the part of working men, who I think ought rather to be encouraged than not in endeavouring to bring matters before the public.

1443. Do you think that the encouragement ought to go so far as to incur the risk of a further increase of Patents, which are not ultimately of real value ?—I do.

1444. (*Mr. Fairbairn.*) Do you think that many Patents are taken out by working men, generally speaking ?—There are a great number of Patents taken out either by working men or by overlookers, the class slightly raised above them.

1445. Are you aware that there is a great inconvenience at the present moment from the number of useless and frivolous Patents which are taken out even at the price which is now charged ?—There may be some inconvenience, but if a Patent is worth nothing, that is to say, if there is no merit in it, then it cannot be injurious to the public, because a Patent for that which is valueless in itself cannot stop any other party from going on with something better.

1446. If a great number of Patents which are known to be perfectly useless are taken out, do you not think that that is rather injurious to the public than otherwise ?—I do not see that it does, because if a Patent is useless a man takes his Patent and pays his money, but he does not injure the public ; for the public are not bound to take his invention.

1447. Does not it stand in the way of more useful Patents as an obstruction ?—I hardly see that.

1448. (*Chairman.*) Have you considered the question whether there ought or ought not to be a preliminary investigation before a Patent is granted ?—If you could obtain any tribunal or party where you could get really a thorough examination, I should think that it would be extremely beneficial, but the more I have considered the matter the more I am doubtful as to whether you could attain that end. I believe that in America they do profess to examine Specifications before Patents are granted, but I have been informed, and I believe it is stated on the authority of Mr. Mason, the party who conducts the Patent business in America, that they get very much in arrear, and that even then they do not consider it perfectly satisfactory. My own impression is rather in favour of granting a Patent at the option of the patentee, and all that I would do would be this : I would call upon a patentee when he sends in his claim for provisional protection to submit the matter to examiners, who should see whether that which he had inserted in the Provisional Specification accurately described what he intended his invention to be, so as to prevent his enlarging it materially when he came to his full Specification.

1449. (*Lord Overstone.*) Would you grant Patents for any subjects, however trifling and obviously un-

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important?—I am rather in favour of doing so. I think the question of utility is one which is very difficult to ascertain. I fancy that hardly any of the public perhaps look in the same light as to what is really useful; and as the public are not called upon to use an invention unless they approve of it, I do not see that the granting of a Patent does a man any great benefit, and it does not do the public any harm.

1450. (*Mr. Fairbairn.*) Then you would grant a Patent to every applicant upon that principle?—I should feel disposed to do so, as I do not see my way to a tribunal which would be perfectly satisfactory to all parties. I should rather grant the Patent at the risk of the patentee. All that I would impose upon him would be the question of the examiners, saying, "What you have put down for your provisional protection is not sufficiently definite to prevent your enlarging it when you come to your Final Specification, and we want you to make it definite and clear."

1451. You would not wish any inquiry to be made as to whether it was an original discovery or not; but if the Specification was very explicitly described, so as to convey to the public what the patentee had really taken out his Patent for; that is all you would require?—It is. The difficulty which I have with reference to the other proposition is this, that if you get a tribunal who are supposed to go through prior Specifications and prior publications, you, to a certain extent, stamp the Patent with a degree of validity, so far as the public is concerned, which certainly I have never heard anybody advocate that it should attain. For suppose my neighbour, a party I am competing with in business, has applied for a Patent for improvements in any description of machinery with which I am connected, I see the probability is that his Patent is valueless, for I have, perhaps, done the same thing myself; but perhaps it is not known generally, and it, probably, would not be known to the Commissioners, and the public would suppose that it was a valid Patent, simply from the fact of its being known that it had previously been submitted to examiners, but who in reality would have no means of knowing whether the invention was new or not.

1452. (*Mr. Grove.*) Would not the public be undeceived by finding out that many of the patented inventions, so called, turned out upon inquiry to be old; would not that induce the public to look at the matter for themselves, when it was known that the grant was really and *primâ facie* grant, subject to being subsequently invalidated if the Patent was bad?—I think ultimately it would have that effect; but then I do not see the advantage of the tribunal if the tribunal is not competent to say whether it is old or new. If you could have a tribunal who should have an opportunity of trying the validity of a Patent before it was sealed, then I think that it would do a great amount of good, but I do not see how you are to accomplish that end.

1453. (*Mr. Fairbairn.*) But if you had a tribunal of gentlemen competent to form an opinion whether a Patent was new or not, would not it be an absolute advantage to the applicant himself to show him that he was throwing away his money for no useful purpose?—There are many instances in which such a tribunal would be extremely useful. Patents are frequently taken out by working men, and they are parties whose interests you should protect as much as possible. They have not the knowledge which larger manufacturers have, and if the tribunal could do it, I would submit to it as a slight amount of benefit, though I do not think there would be the amount of benefit obtained which would be expected.

1454. (*Mr. Waddington.*) I suppose that your opinion would depend almost entirely upon the competence of the tribunal and the care with which they conducted their investigations?—It would.

1455. If they were perfectly competent, and conducted their investigations with great care and dili-

gence, is it your opinion that they might do a great deal of good?—I think that they might. I have no doubt they would do good.

1456. (*Chairman.*) Assuming that such a tribunal conducted its inquiries upon the principle of only stopping such Patents as were upon the face of them either old or worthless, leaving those that were doubtful to pass, do not you think that even in that way there would be a great diminution in the number of useless Patents taken out?—I think there would. There is no doubt, as I have said before, that where a working man applies for an improvement it is something which he in his own department has found to be valuable. He supposes his employer has the best machinery, and that he knows everything that has been done, and he goes to a Patent agent to apply for a Patent, supposing it to be new, whereas, if the Patent agent would be at a little trouble to inquire he would probably be able to tell him, "This is old," which would prevent his going on.

1457. (*Mr. Grove.*) Have you known any Patents which are known to some manufacturers in the trade to be old, but which have been run to their full length and made a source of profit to the inventor by frightening other people not acquainted with the subject?—I believe there have been such cases.

1458. How is a tradesman, for instance, who is threatened by a patentee, and who has a comparatively small interest in the manufacture, to meet the threat by a patentee in the case of an invention which he may believe to be old or not patentable, and yet which he has not sufficient interest or pecuniary means to contest?—It is one of those matters which is extremely difficult, and we want a fresh tribunal for trying Patent cases to meet that point. I may state that I have in one or two cases given 200*l.* to a party for the use of an invention in which I have told him at once that what we used was not an infringement in any shape or form, but rather than run the chance of going to a tribunal where I was fighting with a man of straw, I have consented (thinking it was prudent to do so) to pay 200*l.*

1459. (*Vice-Chancellor Wood.*) That, as I understand, was not a question of the invalidity of his Patent, but a question of your infringing it. You did not doubt the validity of his Patent?—In one case I had two grounds; the one was that I had not infringed, and the other was that I believed his Patent was invalid.

1460. Supposing a preliminary inquiry to be possible, should you think it desirable to have it *ex parte* or to allow opposition in that preliminary stage?—If you have an inquiry, I think it better to have it a public one, because then you would have this advantage, (or probably it might ultimately lead to it,) that manufacturers in the same line of business might feel it worth their while to examine what was coming out, and if they knew of a point they might, to prevent themselves being hereafter put to trouble, feel disposed to spend 5*l.*, 10*l.*, or 20*l.* in opposing it.

1461. In that case you would extend the protection of the patentee until the time for the controversy was ended, inasmuch as there could not well be a contest without disclosing what the process was?—You must extend his protection from the date at which he applied; without that you could not do it.

1462. (*Mr. Fairbairn.*) Have you known any instance of a Patent being taken out where the patentee at the same time had a knowledge that his invention was not new, and that the same thing had been done before?—I cannot say I have. I think that, generally speaking, Patents are taken out by parties who at the time believe them to be beneficial and new; but it is from want of information as to what has been already done. I do not think that many parties apply for a Patent and make a declaration that they are really new inventors when at the same time they are convinced that they are not.

1463. But there have been instances of that sort, have there not?—There may have been.

1464. (*Mr. Waddington.*) The question of novelty turns sometimes upon very nice distinctions, does it not?—It does.

1465. Unless a person were well acquainted with the principles of machinery, he might really not be able to ascertain precisely whether his supposed invention was novel or not; a working man, for instance?—There is very great difficulty in doing it; there are so many nice distinctions as to what is novelty and what is not, that it requires almost an expert to form a correct opinion.

1466. (*Chairman.*) As I understand, you do not consider that a Patent ought to be refused in any case merely on account of the apparently trifling nature of the invention for which it is claimed?—No, I do not; the difficulty which I see is of two men looking in exactly the same view as to what is useful. There are numbers of Patents which I could with a little trouble find out, which have been supposed, when granted, to be almost valueless, but which have turned out to be very profitable, while many which have been supposed to be extremely valuable have turned out to be comparative failures; and hence, a patentee himself is very often deceived in the estimation which he puts on the value of his own Patent at the commencement, and it is only by trial that he can really ascertain what is good.

1467. (*Mr. Grove.*) Do you find any defect from this circumstance. In a large manufacturing concern where there are many looms or many mules employed, the ordinary little improvements which, probably, any skilful workman would adopt from day to day as time went on, he is now practically prohibited from making, that is to say, he runs the risk in each of them, however trifling it may be, of infringing some Patent. Do you find that that in any way trammels the progress of trade, a person not being able to make any slight changes which experience indicates in working a manufacture?—That is a difficulty. Many parties in trade have made alterations without being aware of their being patented, and when they have used them for a length of time, they have found that the patentee has come upon them and made a claim for Patent right.

1468. (*Chairman.*) Then you think it comparatively immaterial how many Patents are granted, or what they are granted for, provided there is an easy way of obtaining the repeal of those which are invalid?—If you could devise any means by which the utility or the importance of a Patent could be ascertained, then it would be well to diminish the number; but failing to see a mode by which you can arrive at that distinction, I feel disposed to leave it rather to the patentee than to others.

1469. (*Lord Overstone.*) I understand your opinion to be, that nothing but subsequent experience can afford an adequate test of the utility or inutility of an invention?—That is so. I know in my own case, we have taken out a number of Patents, and frequently those to which we have attached the least importance have become the most valuable, and, on the contrary, those from which we have expected large things we have reaped comparatively no advantage.

1470. And no improvement in the constitution of the tribunal could overcome that inherent difficulty?—I do not see that it could, because when I have been looking at an invention, to consider whether it would turn out beneficial or not, and if I have been deceived in forming a correct judgment upon that point, looking at it with a view to my own information as to whether to proceed with a Patent or not, and being tolerably acquainted with the business, I think that very few other parties could be in a better position to form an opinion than I could in my own case.

1471. (*Mr. Fairbairn.*) If I understand you rightly, it would appear that any preliminary investigation might have a tendency to throw out Patents which might ultimately become useful?—That is the doubt which I have.

1472. And the difficulty would be to ascertain which was a good Patent and which was a worthless one?—Yes. Though there might be a Commission, if it was desired, for referring applicants to in the first instance; and supposing the Commissioners were unanimous in objecting to the grant of a Patent, then by giving a power of appeal to some other court, you might perhaps do it, because in ninety-nine cases out of every hundred, where the Commissioners said that they believed the invention was old or useless, I do not think the party would go on with it.

1473. (*Mr. Grove.*) There are a class of Patents, which probably you do not see much of in your own way of manufacture, namely, Patents for very trifling matters, Patent inkstands, slight improvements in bookbinding, articles of dress, and things of that sort, where the invention could never be a great one, do you think that it is desirable that Letters Patent should be granted for all those minor matters, things which, admitting everything, could be only a trifling change from the existing articles?—As I have before explained, seeing the difficulty of drawing the line as to what is really useful or not, I do not see how you are to attain to it, and I should, therefore, submit to the inconvenience, because the public are not bound to buy a Patent inkstand, or other article of a trifling character; for instance, there are Patent corkscrews with a lever; they seem very simple things; the public are not bound to use them; if they choose to use the old-fashioned corkscrew, they may do so. I think there is a Patent for a knife for opening oysters, but the public are not bound to use it.

1474. (*Chairman.*) Have you been concerned personally in Patent trials, either as defending your own Patents or attacking those of other persons?—I have in both.

1475. You have, therefore, some experience of the working of the tribunals established for that purpose?—Yes.

1476. Do you consider that they are satisfactory?—I do not. I think that the fees which are paid for Patents are sufficient to pay for the establishment of a special tribunal. I would have a Court to whom all Patent subjects should be referred. I would give no choice of leaving them, as they now are, to any of the three Courts of Law or the Court of Chancery, but I should compel all to be tried before this one tribunal. I would grant to the judge or judges, whichever might be deemed advisable, whether one or more, the assistance of two or more associates, somewhat on the plan of the Admiralty Court, where, I have been given to understand, that the Judge has the assistance of parties who are conversant with such matters. I would give the Court full power to order inspections of machinery, whether it was for the plaintiff or for the defendant; in fact, I should like the Court to be one which would have full power to make rules, so as to guide the Court as much as possible in arriving at a correct conclusion with the least possible expense. At the present period, parties are sometimes compelled to be at great expense in proving that a machine has been made, when it is well known that parties have made it; but you are compelled to bring witnesses up to prove the fact, and as soon as you have got into Court, and have got a witness to prove it, the other side will at once admit it has been made by them. Now, I think that the Court ought to be able to reduce the matter in that way as much as possible, so as to prevent either plaintiff or defendant from snatching a verdict, and to enable the Court to try, as fully as it can, the real merits of the case. I should like the plaintiff, the patentee, when he delivers his particulars of breaches, to state either the particular claim or the particular part of his Specification which he considers is infringed, so that the defendant may have as little trouble in searching the Specification over as is compatible with ascertaining the true nature of the case. On the other hand, I would have the defendant, when he gives in his notices of objections of prior use and of former Specifications, to point out the

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particular part of such Specification that he relies upon, coupled with the particular part of the patentee's Specification which he intends it to apply to. At the present period, the defendant probably puts in some half dozen Specifications; he does not state what part the matter is intended to be applied to, and the consequence is that the plaintiff has to be at great expense either in employing experts, as they are usually termed, or else himself, or to get others to search out to see what portion of the Patent it really can be which the defendant is attacking. There is no clue to show which claim is intended to be attacked, or what it is. Now, I think there ought not to be that useless trouble put upon either plaintiff or defendant.

1477. (*Mr. Grove.*) You may, perhaps, not be aware of it in cases in which you are concerned, but that is now done. By reference to a Judge at Chambers, the patentee is frequently obliged to point out the portion of the Specification which he says is infringed, and conversely the defendant is obliged to point out in his notices of objection what part he relies on. It is done constantly; I do not know that any great good arises from it?—One can get it done in that way. In a case in which I am now engaged, we have had to come before the Court to get these particulars, and it is attended with a great amount of trouble and expense, getting parties to come up to London and attend the Judge at Chambers. The Judge at Chambers, as a rule, has, perhaps, some 20, 30, or 40 subjects to dispose of; he has an hour or a couple of hours at his disposal, and the natural consequence is that he can hardly be supposed to be capable of doing full justice to these matters; but if you had a special tribunal, the Judge and the associates who were with him specially directing their attention to making rules for a particular object, every plaintiff and every defendant would know that he was bound to do it, and instead of asking a Judge at Chambers to do it, it would be done at once as a matter of course, and if not done, the Court might impose a penalty.

1478. (*Mr. Fairbairn.*) If I understand you correctly, your opinion would be in favour of having a perfectly distinct tribunal, which should do nothing else but attend to the Patent Law?—Yes. Mr. Grove will well know that Patent cases are considered by many of the Law Courts to be rather a nuisance than otherwise. I think I have heard some of the learned Judges say, "These cases are taking up a 'great deal of time, obstructing the public business,'" and they are liable to get a little impatient with the matter. The advantage of a special tribunal would be this, that you would get a Judge whose mind being specially drawn to that particular branch of the profession, he would necessarily acquire great knowledge of the subject, and ultimately would get accustomed to master many difficult points. It is wonderful that the Judges, from having a case now and a case then, are able to master the points in the manner in which they do. I think extreme credit is due to the Judges for the patience with which they undertake and the manner in which they get through them; still, if you had one Judge giving his mind to one class of business, I think you would find an advantage, same as we do in our business; the subdivision of labour is a great advantage which this country possesses over the continent.

1479. (*Lord Overstone.*) In constituting such a Court, would you retain the jury as a part of the system of trial or would you suppress them?—I think I should retain the jury.

1480. In what character would you propose to introduce the advisers or assessors which you speak of, simply as persons giving useful information and advice to the Judge, or as exercising any share of the authority?—In giving assistance to the Judge and in mastering technicalities.

1481. As parties with peculiar knowledge competent to give information to the Judge upon his request to be furnished with it?—Yes.

1482. (*Mr. Fairbairn.*) But it very often happens that the jury are not competent or not conversant with the subject which comes before them?—That is the difficulty, and it might be said to be an objection to appointing such a tribunal as this, that you would bring a class of business to one particular district; supposing it London, perhaps the jurors might feel disposed to think they were unnecessarily trespassed upon by having the business of the whole country brought for them to try.

1483. (*Mr. Grove.*) You need not confine your tribunal, if you had one, absolutely to London; the judges of such a tribunal might make a circuit amongst the manufacturing towns, Manchester, Leeds, and some other towns?—If they could do that it would be a beneficial result, because it would save expense in bringing witnesses.

1484. (*Mr. Hindmarch.*) Looking to the nature of the inventions which are mostly patented in the present day, do you think a jury a good tribunal for deciding questions, either of novelty or of infringement, with respect to such matters?—There are many cases tried in which the jury are quite incapable, excepting under the direction of the Judge, of giving an opinion, and in that respect it is unsatisfactory.

1485. If that be so do they really exercise an opinion; is it not rather the opinion of the Judge which determines the question?—I think it is.

1486. If that be so do you think that a jury is at all a useful appendage to the trial of a cause?—That the jurors very often mislead the parties, there is no doubt.

1487. You yourself, I believe, have seen a good deal of Patent litigation?—I have.

1488. Have you not found that jurors are apt to be misled by matters of prejudice, and induced to decide the question before them by matters of prejudice rather than upon the true facts of the case?—There is no doubt that that is so, and it is only by the appeal which you afterwards have that it is remedied. If you could get a Court consisting of five parties, namely, one Judge or two Judges, and three or four parties who were competent to form an opinion, I think you would most probably arrive at a better conclusion than you do with an ordinary jury.

1489. (*Vice-Chancellor Wood.*) There has been a suggestion of a panel of scientific men, sufficiently large to choose from time to time some five or six, or whatever number might be determined upon, or some say three, as a jury; would a scheme of that kind be desirable in your opinion?—I would rather not have a panel from which you would take them, but would rather have four associates with the Judge, and let the Judge and the associates decide the question.

1490. You would let them act as a jury?—Yes.

1491. (*Mr. Fairbairn.*) And you would dispense with the jury altogether?—Yes.

1492. (*Mr. Grove.*) If they acted as a jury, that is to say, if they give a verdict on the facts, you would have a fixed tribunal, which the parties could not challenge, and if the public rightly or wrongly suspected them of any bias or interest, you would not have the usual means of challenge?—If the Court or the Judge is suspected of that I do not see why you should not have a power of appeal on points of law, which might be reserved; you would have the same power of appeal that you have at present in the other Courts.

1493. So far as regarded the points of law there would be no difficulty; that would be entirely a legal question, but as to the decisions of fact, supposing that of the three or four permanent assessors some were believed to entertain (it may be wrongly) very particular and strong views on certain subjects, if they were to act in the capacity of a jury would the public be satisfied with that?—If parties had strong opinions, and were known to have them, whether for patentees or against them, I think that would be a very improper tribunal to have, and the

sooner they were removed from their position the better; but in selecting four or five associates with the Judge, I should presume that they would give an honest exposition of the views as laid down; and that they were not to be favourable to a patentee or against him, simply as a question of favouring him or being against him.

1494. Would you give to these persons, whom you would have as a sort of jury, salaries, and remove them altogether from any manufacturing or engineering or trade practice of any description?—Certainly.

1495. You would make them a permanent jury, in fact?—I should not exactly put them in the character of a jury, although in reality it would come to that, but rather in the character of associates. I would give them not so large a salary as the Judge, but certainly pretty nearly as large an one, so that you might ensure sufficient talent.

1496. Would you give them an absolute voice in the shape of finding a verdict, or would you make them merely advisers to the Judge, the decision resting with the Judge. I am presuming that you would give the Judge the entire ruling in point of law?—Yes.

1497. Would you give the jury a voice as a verdict in point of fact, or would you have them as mere scientific advisers to give their opinions to the Judge, he pronouncing the decision?—I apprehend practically, however you put it, it would arrive at that. Supposing there were four parties to assist, if two of them were one way and two the other, the Judge would have to decide the matter.

1498. Suppose that they were unanimous in their opinion, and that the Judge differed from them?—Then I apprehend that there would be a power of appeal, the same as you have now from the finding of a jury. You have the power of appeal, and of saying that the verdict was against evidence. In this case, the appeal would be that the verdict was against the evidence. That is to say, the verdict would have been the verdict of the associates, or of the Judge and the associates, and it would be as against them.

1499. (*Mr. Hindmarch.*) If you had a permanent list of persons to be employed in this way, bearing in mind the great number and the great variety of the manufactures of this country, would it not be necessary to have a very extensive list of persons?—I would myself rather take the ordinary jurors than a selected list of jurors in the same business, because if a man is in business he is likely to be biased. I will put it that I am a machine maker, a maker of mules or of carding machines; if I was put into the jury box it would be difficult to sever from my correct judgment a slight bias. There would be a great danger of my giving a voice against the Patent rather than for it, supposing it to be a doubtful point, if I thought it would interfere with my own business. I think that you would be putting parties in a wrong position, making them, as it were, judges in their own case.

1500. Would you say that there is something like an *esprit de corps* which seems to prevail in every class of manufacturers and tradesmen, so that you think it is desirable to avoid giving them a voice in the decision?—I do not think there is any particular feeling of that kind. I think it must be taken as an individual feeling; that is to say, that if my fellow competitor has something which is better than I have, we naturally think he has a slight advantage; and if we are put to judge as to whether it is new or whether it is old, if there is a doubt in the case, you are putting our honesty of opinion to rather too strong a test; it might be biased, though we desired to give a correct and unbiased decision. I hope that none of us would willingly give a verdict as against our convictions; but supposing it was a dubious point, upon which it might be said the right or the left hand has it, I am afraid we might be biased by our own interests in deciding, and if not, still the jury might be suspected of having been so.

1501. (*Mr. Fairbairn.*) With such a tribunal as

you describe, the assessors or associates would have to exercise all the functions of a jury?—Yes.

1502. And they would be responsible for the verdict whatever it might be, as well as the Judge?—Yes; I would say that if any four gentlemen now present were put where they were considered to be paid for a specific duty, I think they would be so amenable to the public voice and to public opinion that they would at all events endeavour honestly to discharge the duties of their office.

1503. It is also your opinion, I suppose, that any tribunal of this sort where there would be assessors and a Judge having that exclusive business to attend to would attain a greater perfection than you could possibly get in ordinary Courts?—Yes.

1504. (*Mr. Hindmarch.*) With reference to the constitution of a tribunal of this sort, have you had anything to do with the cognate matters, registrations of designs, having reference to the purpose of utility?—No, I have not.

1505. You have not any opinion as to whether questions concerning them might also be transferred to such a Court as you speak of?—If you ask my opinion I think that they might.

1506. (*Lord Overstone.*) The course of examination seems insensibly to have led you away from the opinion which you originally expressed in favour of retaining the jury as a part of the system of trial?—I had not considered the matter before as to the question of assistance in that respect, it was rather raised as to the difficulty of obtaining a jury, and I only spoke of a jury from its having been established in the country generally. As Englishmen we are perhaps rather fond of trial by jury, but there are certain difficulties which I think all have experienced who have had any connexion with it.

1507. After the examination which has now occurred, is it or is it not your opinion that we could safely withdraw the trial of Patent causes from the tribunal of a jury as a means of obtaining the influence of the common sense and the common feelings of the community to act in co-operation with the more experienced learning of a Judge?—I think you might, with the assistance which I have indicated.

1508. You think that with assessors, properly selected, the present security or advantage which we are conceived to derive from a jury might be surrendered?—I do; there is another point upon which I wish to make an observation. I think a patentee ought, to a certain extent, to be put under terms, and that no patentee should lie by waiting for the public to use his invention and then come upon them after a lapse of time for damages without having given to the public or any party the slightest intimation. According to the present plan, a party can sleep, if I may so call it, on his Patent; he can allow the thing to go on and he can go back for six years for damages. Now I think if a patentee gives no notice to the public he ought certainly to be debarred from going back for any great length of time.

1509. (*Chairman.*) But how can you prove that he has been aware that his Patent was being infringed, in what form should you say that he ought to give notice to the public?—For instance, I will take my own business. Suppose I am a maker of mules, and that A. has a Patent for a mule, which he believes me to be infringing, but abstains from giving me or the users any intimation thereof; if I make those mules openly, and sell them openly in the market, and there is no notice taken of them, I do not think I ought to be liable to his going back certainly more than two or three years, and I think a patentee, if he is not sufficiently alive to or aware of the fact, ought not to have the power of doing it. If a man carries on his business in secret, that is to say, if a patentee has an invention which is so small that a man may carry it on secretly, then I would give him the full power of going back for the six years. But I mean to say, if I am the maker of a machine, and sell the machines openly, and they are used openly by the trade without any reserve or restriction at all, I

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think then you ought to limit the period to some two or three years, in respect of which the patentee should have the power of claiming damages. I think he is bound to exercise some diligence himself in ascertaining whether his Patent is being infringed or not, and that he ought not to let the matter lie by.

1510. (*Mr. Hindmarch.*) You would in truth then have a limitation to the right of action amounting to two or three years?—Yes.

1511. (*Mr. Grove.*) That is to say, a limitation to damages or account?—Yes. Supposing I have obtained a Patent, and have not the means perhaps of contesting it, if I give notice to A. or B. that I consider he is infringing my Patent, and state what it is, then I would allow my right to go on for say five years instead of six, it is questionable whether you ought not to limit it to four years under any circumstances, because if a man cannot ascertain whether his Patent is being infringed or not, I think the other party ought hardly to be put under the terms.

1512. (*Lord Overstone.*) You say that the right of recurrence for six years ought to be retained in case the Patent has been secretly used?—Yes, then I think it might be done.

1513. But not in case it has been publicly used?—Just so.

1514. What possibility would there be of drawing that distinction; how would that distinction be set forth?—In this way. If I am a patentee, and another party makes my patented articles, and carries on that business secretly, or carries it on in his own place, then I think the probability is that it would be found to be a secret user. But I am now assuming the case of a manufacturer, who is making large quantities of machines, and disposes of them, and the party who buys them uses them, and all is done openly and extensively, then I should say it was a public user.

1515. (*Mr. Hindmarch.*) Are there not a great many articles made by means of inventions, the articles themselves not disclosing the make of manufacture?—I apprehend that that would not be any infringement of the Patent. The article that is made, I apprehend, is not the use of the invention.

1516. Are there not many cases in which there are new processes for making old articles, or articles of an old description, which might be made and sold by a person and still the process would be secret, or at least it might not be public; how would you deal with such a case as that?—I do not exactly understand the point alluded to.

1517. You have said, in answer to a question of one of the Commissioners, that if the use of a particular article was public for some time, and all the world could see it, in the case of the machine which you have put, no person, after lying by for some time, should be able to recover damages for an infringement of his Patent; but in a case of that sort, if I understand it rightly, the machine itself would disclose how far it was or was not an infringement of the Patent. Then I put to you a case in which an article is sold which does not disclose upon the face of it that it is an infringement of any Patent, it being made by a process which is not apparent on the face of it. I ask what you would do in a case of that sort?—I understand, from what I have had to do with the Patent Laws, that, supposing you take out a Patent for an improvement in making, say an inkstand, the invention is in the making of it, and that when made of course you would see at once whether it contained the essence of the Patent or not; but you do not take out a Patent and say, "This string is produced by a 'patent process.'" Supposing it was made by a machine, I apprehend the Patent must be for the particular mode of making it in the machine, and not for the article when made. That is what I understand.

1518. (*Vice-Chancellor Wood.*) Then you would confine the publicity to this, that the actually patented article had been publicly sold, and in that case you

think that the damages ought not to be recovered?—If it is sold in the ordinary way of business I think they should not be, for I think there is no patentee but who is aware, before three years elapse, whether parties are infringing his Patent or not, and if he does not choose to exercise his right, or to give some notice to the party that he is doing it, who may all the while be infringing the Patent without any knowledge whatever on the subject, then I certainly think he ought not to have a right of action.

1519. (*Mr. Hindmarch.*) Supposing a patentee to be living in France, and a person in Limerick to be infringing his Patent, might not that go on for a considerable period without the patentee knowing anything about it?—There is no doubt there might be hardships in it. But I do not want to look in my own case as a patentee for my own particular benefit. The public have a right to some amount of protection.

1520. (*Vice-Chancellor Wood.*) Would it not come to this, looking to the difficulties of seeing whether or not a person has done it secretly, that your only mode of effecting the object would be to have a shorter Statute of Limitations altogether, whether the thing was secret or not secret. It seems excessively difficult to draw the line?—There might be a difficulty, but if you had such a tribunal as I allude to, I think the Court would very soon be in a position to say whether the matter had been carried on secretly or not; and where a party could prove, to the satisfaction of the Court, that he had carried it on openly, I think he should only be liable to three years' damages.

1521. (*Mr. Hindmarch.*) Would not the object which you have just mentioned be sufficiently carried out by providing that the new Court which you suggest should have the power of determining whether or not a patentee, by his conduct, had disentitled himself to an account of bygone profits?—That is what I virtually wish to arrive at. Then there is another point. I will say a patentee comes against me individually, he claims from me an account of profits for making the machine; it is decided against him, at all events to a certain stage, he then comes or proposes to come against parties who have been using the machine I have made and for which he has come upon me. Now I think there ought to be some distinct rule laid down that no patentee ought to come for two questions of Patent right for the same thing. If he chooses to come to me as maker for damages, that when settled ought to settle the question so far as regards those machines.

1522. (*Mr. Fairbairn.*) Would you give a patentee the power to come either upon the maker of the machine or the user of the machine?—It is considered now that he has the power of doing so, but I have been informed that it has never yet been fairly tested in any court of justice, whether a man who uses a Patent machine is an infringer. For instance, take the self-acting mule; suppose I have made a Patent mule, there has been no decision that a party who has used that mule when so made has been an infringer.

1523. (*Mr. Hindmarch.*) At all events, if I understand you rightly, you propose that there should be a limitation of the right to recover damages, that it should not be both against the maker of the machine and the person who afterwards used it?—Certainly.

1524. (*Mr. Fairbairn.*) I can very easily conceive the case of a Patent mule where the machine maker knows that it is a Patent, and has made the machine, and the other party using it does not know that such a Patent exists at all; but if the patentee had not the power of coming upon a man who used a Patent article, knowing it to be such, it would alter the case very materially would it not?—If the patentee has now the power of coming against either the maker or the user then I would limit it to one, giving him his option, but I would not let him proceed first against the maker and then against the user for the same thing, when he has already obtained damages.

1525. But when a person is using a machine which he knows to be patented, he must expect to be called

up by the patentee whenever he chooses, must he not?—I believe so; but I believe that it has never been decided.

1526. Is a person in his position justified in making use of a Patent, knowing that it is a Patent, without coming to terms with the patentee?—If the law is undecided on the point he is. He takes his chance.

1527. (*Chairman.*) Is there anything else which you would wish to add to the evidence which you have given?—With reference to the 6th question, namely, as to greater facilities being provided for the repeal of invalid Patents, I think great facilities should be given by which parties might be in a position to give evidence of the invalidity of a Patent at the least possible cost. Supposing a patentee has brought an action, and the Court has decided that the thing is old, then I think instead of being at the expense of issuing out a writ of *scire facias* against him, the Court ought to be at liberty at once to cancel the Patent. But supposing a patentee whose Patent was declared to be invalid, gave notice of appeal, and prosecuted such appeal until that appeal was settled, I would not repeal his Patent. But full power and every assistance ought to be given to the public to repeal invalid Patents. With respect to a Court of Appeal, I should only have one Court of Appeal from the Special Court. As to the form of it, I think the Court might have the assistance of some of the Judges of the other Courts, same as the Court of Divorce. There is one point, with reference to the Provisional Specification, which I should like see provided for. At the present period it is a moot point (at least I have heard differences of opinion between counsel and Patent agents, and others,) with regard to the Final Specification. A party applies for three distinct things, and when he is making his Final Specification he finds that one of the three has been previously used, that it is old. In many Patents you find it stated, "since the taking out of my Patent 'I find that the second' or third 'part has been previously used, and I therefore make no claim for it.'" Now it should be understood that a patentee has the power of doing that. But I have heard some parties state that you must go to the Attorney General; that you must apply for leave to disclaim; that it would be a fraud on the Crown to claim only for two instead of three things. It ought to be clearly understood that during the six months in which a patentee has to complete his Specification, if he finds a part of his Patent is old, he should have the power of disclaiming any portion of it which he finds to be old. And that would apply to a certain extent, I think, to question No. 12. I would give every facility to a patentee to make any alteration in the shape of Disclaimer or Memorandum of Alteration which he found was requisite. I do not see why we should have to give notice in the papers, and go before the Attorney General, and otherwise. If he gives up a portion of that which the Crown is supposed to have given him in the shape of an exclusive right, I think he ought to be at perfect liberty to give it up at any time, without any extra expense; and the only restriction which I should put upon him would be this, that supposing he altered his Specification, and that alteration was virtually an enlargement of his claim or of his Specification, the Court, when they came to take cognizance of it at the trial, might say "It is true you 'have disclaimed, but it is not a valid Disclaimer.'"

1528. (*Mr. Hindmarch.*) The policy of the law at present is that the Attorney General shall look at the proposed Disclaimer and see whether it will in effect, if allowed, extend the Patent right, and you say that that is an unnecessary safeguard to the public; am I to understand you to go so far as that?—No; I do not say it is an unnecessary safeguard to the public, but it is unsatisfactory. The practice is this:—The Attorney General causes you to advertise in the "Gazette" and the London "Times," and several other papers, before he will grant it, and when granted it is not conclusive. If the Attorney or Solicitor General had finally to decide whether it

was an enlargement or not, there could be no objection, but at present it is an extra expense which you are put to for that which practically amounts to nothing.

1529. An Attorney General may not be acquainted with the particular description of trade, or there may be terms of art in the Specification which he may not thoroughly comprehend,—he calls the public to come in to his aid if they think fit so to do; do you not think that a proper and expedient and necessary thing to do?—I do not. As far as regards the question, I would, as I said before, let a patentee have the power of giving up at any time any portion of that for which the Crown has given him an exclusive privilege, and when he has done that, and when he has altered his Specification, he should be just as amenable to the Court who try Patent cases as he is now, because, as Mr. Grove will remember, in a case in which we were, there were doubts thrown out as to whether it was a Disclaimer which ought to have been allowed, and there was a question whether that should not be tried; you have no exclusive right (as I understood in that particular case) when the Attorney General has sanctioned the Disclaimer to say that it is *ipso facto* valid; it is liable to be called to account before a Court. Therefore, if, when you have taken the precaution of the Attorney or Solicitor General giving his opinion, and if his decision is liable to be called in question before a Court, surely you may leave it to the patentee to do it, and be liable to the same. Another reason why the responsibility should be left with the patentee is that it is impossible for the Attorney or Solicitor General to have time to go through and examine the multitude of provisional protections which are demanded, and also to go through all these questions of Disclaimers along with their other business; it is impossible they can do thorough justice to every case.

1530. (*Mr. Grove.*) If you allowed the patentee to do it by himself, might he not be everlastingly shifting his invention about right and left without the public knowing what he really meant by his Specification; without any controlling power, a patentee might vary his Specification continually, and the only mode of ascertaining whether he has done it legally or not is by trying an action?—There is no varying, but only giving up a certain portion.

1531. But by giving up you may vary continually, as in a certain case the patentee was said to have extended the Patent by the apparent contraction?—Taking that particular case (I do not know what it is) if the Disclaimer had been allowed before the Attorney General or the tribunal, and it had passed them and had then been called into question, what would be the harm as to whether it was the patentee's disclaiming or the patentee's disclaiming subject to the Attorney General's approval, because if when the Attorney General has approved of it it is open to the Court to say he has done wrong, I do not see any advantage to either the public or the patentee in being called upon to submit the point to the Attorney General for decision.

1532. (*Mr. Hindmarch.*) Does what you have said virtually come to this; at present the power to disclaim is to disclaim a part of the Specification or title, and not the invention; do you mean that a power might be given to disclaim not merely the words of the Specification, but to disclaim so much of the invention as the party chose to give up?—I apprehend the power now is to give up any portion of the Patent which he possesses, and if that relates to two or three subject matters he would give up that portion of his invention as well. It applies not merely to a particular claim, but it applies to a particular machine where you see more than one invention in the same Patent.

1533. (*Mr. Fairbairn.*) Am I to understand that the patentee, having had four or six months to amend his Specification, and to do everything necessary to be done with it, you would allow him after that period to cut off any part of his Patent if he chose to

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do so?—Yes; it is now allowed by going before the Attorney General, but you subject a patentee to the expense of all these advertisements, and of going before the Attorney General, and appearing by an agent in London, and I think you ought to curtail all useless expense.

1534. (*Vice-Chancellor Wood.*) As far as advertisements are concerned, I suppose that it would meet your views, if that is necessary for publicity, that it should be done without consulting the Attorney General, if that is thought desirable?—Yes, if that is deemed desirable, and it is any protection to the public. I never knew an instance in which a party had applied for a disclaimer which was advertised in the "Gazette," and in other places where the public, unless it was some particular individual, felt it worth their while to appear before the Attorney General and to say, "This Disclaimer ought not to be granted."

1535. But if it is necessary to put the public on their guard, it would be sufficient for the patentee to state, "I hereby advertise that I intend on such a day to disclaim"—Yes.

1536. There ought to be some public notice, otherwise a Specification which is enrolled in the Patent Office will be deceiving everybody?—The matter must be formally delivered to the Patent Office; it

must go through the regular Courts, and it would be enrolled and printed in the Patent Office with all the other proceedings.

1537. The patentee would be obliged to employ a Patent Agent for that?—No doubt he would.

1538. (*Chairman.*) Have you formed any opinion upon the question of compulsory licences?—So far as regards licences, I do not see how granting a compulsory licence is to be settled.

1539. What is your opinion with respect to granting Patents to importers of foreign inventions?—I should grant Patents to importers of foreign inventions, or parties residing abroad.

1540. (*Vice-Chancellor Wood.*) Would you give merely the importer of an invention a Patent if the importer of a foreign invention be a person merely travelling in France or Italy, and finding something new, and bringing it over?—I think it ought to be confined to the inventor, or a party acting for him.

1541. (*Chairman.*) With regard to prolongations and confirmations, have you any remark to make?—No. I am satisfied with the present appeal to the Privy Council. If there could be any means by which the expense could be a little curtailed it would be beneficial to parties; but as a whole I have never heard any complaints against that tribunal.

The witness withdrew.

Adjourned to Thursday next at half-past 4 o'clock.

Thursday, 26th February 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.
HORATIO WADDINGTON, ESQ.

W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q.C.
W. E. FORSTER, ESQ., M.P.
WILLIAM FAIRBAIRN, ESQ.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

SIR FRANCIS CROSSLEY, Bart., M.P., examined.

*Sir F. Crossley,
Bart., M.P.*

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1542. (*Chairman.*) You have had a large experience, I think, of the working of the Patent Law?—Yes, I think that I have.

1543. Both in defending Patents on your own account and probably in resisting Patent claims on the part of others?—Yes.

1544. You are actually in possession of a considerable number of Patents, I think?—Yes; the firm with which I am connected is.

1545. Have you considered the question of the cost of obtaining Letters Patent, whether it is too great or too small?—I think that the alteration which was made was very satisfactory both to the Patentee and to all parties concerned; before that the cost was excessive.

1546. You allude to the alteration which was made ten years ago?—Yes. We find now that a great number of the Patents which are taken out lapse at three years and seven years. Patents which we have taken out ourselves we have allowed to lapse finding that they were not so good as we at first anticipated, that the benefits arising from them were not so great.

1547. It has been suggested that it would be better to have the payment made by annual instalments rather than as at present at intervals considerably longer, do you think that there is anything in that proposition?—It is a matter of not much consequence, I think, whether it be at intervals of three or seven years or annually. The payments which are made on the Continent both in France and in Belgium and in other countries, so far as I remember, are all annual payments. I myself think that the English Law, since it was altered with regard to the obtaining of Patents, has worked very well.

1548. You think generally that the Law so far as it relates to the cost of Patents is satisfactory?—I do.

1549. Have you considered the question whether there ought to be a preliminary inquiry before the granting of Patents in order to prevent a multiplication of useless or frivolous Patents?—I think that it would be very difficult for any one appointed by the Government to decide what is a frivolous Patent. I believe that a Patent was taken out for simply putting india-rubber at the end of a glove so as to make it tight round the wrist; that might have been considered a frivolous Patent, but I believe that it was thought to be a very good one in the trade and it was new and useful. I think that it would be rather difficult to draw the line. I cannot see my way to it.

1550. Do you think that the present inquiry before the Law Officers is sufficient?—So far as my own experience goes it is; there may have been things which have occurred in other trades which have been objectionable, but they have not come within my knowledge.

1551. (*Lord Overstone.*) Guiding your general judgment by your personal experience, though limited, is the result in favour of retaining the present arrangement, or do you think that it requires any reform?—I should be afraid to alter the present arrangement. I should be afraid of getting into larger difficulties than we have now.

1552. (*Chairman.*) You think that it would be impossible to exclude Patents which either are not original, or are of no value, without running the risk of excluding others which might be of real value although they would not appear so at the time?—I certainly would give the Law Officers, or whoever had the power of granting them, the power of refusing something which really upon the face of it was ridiculous and not at all likely to be useful.

1553. (*Lord Overstone.*) Do you think that their present power as practically exerted ought to be in-

creased or to be rendered more efficient in its operations?—I am not quite aware of the present law in that respect, whether they have the power to refuse or not. I believe that they have the power to refuse, but I am not quite certain on that point; if they have not I should certainly give them the power to refuse something which was absurd or ridiculous.

1554. (*Mr. Fairbairn.*) Have you anything to suggest with regard to rendering the Specification more distinct and clear on applying for a Patent, or do you think that that would remedy the evil to a certain extent?—I think that they ought to insist upon the Provisional Specification, the deposit paper, as it is generally called, being clear and showing what the intention of the inventor is, as to what it is that he is asking a Patent for. I think that that ought to be very clearly defined.

1555. (*Lord Overstone.*) You say that you think that the Law Officers of the Crown ought to exercise a power of refusing applications for Patents upon the ground of their being ridiculous or absurd. Would there not be danger that such a power might be exercised in the very case which you have put, of the bands of gloves?—I think that in that case the inventor would be able to show that it was useful.

1556. You think that the Law Officers of the Crown could be safely entrusted with a discretionary power of deciding what is useful or what is not useful, what is serious or what is ridiculous?—I do.

1557. (*Mr. Fairbairn.*) Do you think that that would be an improvement?—I have already said that I do not know what the present power of the Law Officers of the Crown is; but I think that they ought to have that power if they have not it now.

1558. You think that they should have discretionary power to reject any Patent which upon the face of it was never likely to be useful at all?—Yes; I would leave them that power with perfect safety; they are men of good common sense, or they could not have attained the position which they hold, and I think that they would not refuse a Patent if the inventor could show that it was useful.

1559. To arrive at that decision it would be necessary to have some person to examine and investigate the nature and the quality of the Patent which was sought for?—Yes.

1560. That would be a preliminary investigation of the Patent itself?—Yes. Afterwards, when we come to the questions with regard to the trying of Patents, I shall have some suggestions to make, and perhaps it might be thought that the same body would be the proper party to make that examination.

1561. (*Lord Overstone.*) Do you think that that decision of the Law Officers of the Crown should be founded upon an *ex parte* view of the case?—I am not sure that the Law Officers of the Crown would be the best parties. I think that perhaps the other tribunal, of which I shall speak by and by, may be a better one.

1562. (*Chairman.*) Do you think that it would be convenient to have the question of the first granting of Patents, decided by the same authority which has to decide upon the validity of a Patent when granted?—I think that that would be the best.

1563. Do you think that the manner in which actions and suits instituted by Patentees are at present tried, is satisfactory?—It is most unsatisfactory.

1564. In what respect?—The great delay in the first place in getting a cause heard is very serious; there is very great difficulty in getting it tried, and the witnesses are very expensive; and when it is called on in Court, you almost always find that the Judge shirks it, he does not like to try a Patent cause; he appeals to the jury whether they think they can be made to understand this difficult and complicated question, and they almost unanimously say that they cannot understand it, and they wish it to be referred. Then if the plaintiff is against its being referred, he has to go on with both Judge and jury against him, and is thought to be a very stupid man if he will not

allow it to be referred; and *vice versa* if the defendant will not have it referred, he goes on under very disadvantageous circumstances; and when it is referred they must select as the arbitrator some counsel who has some position, and, of course, counsel of that class are very much engaged, they will not give up the time which is likely to be wanted in Court for other cases, they will not sacrifice their own professional business for it; and when the recess comes they say that they want their holiday like other people; they do not like to be taken away for arbitration cases. And the remarks which I have made with regard to the barrister appointed to try the case applies to the barristers engaged on each side. It is very important that a Patent cause should be proceeded with every day until it is completed, and not that a little evidence should be taken one day and a little another, because, let a man be ever so clever, when he has heard a portion of the case, and he is employed in other cases, he forgets what he has heard, and by taking it up in fragments, in that way, it is impossible to get justice done to either side. I think that anything more unsatisfactory than the present way of trying Patent causes in this country it is impossible to have. With regard to leaving the question to a jury, I do not think it is possible for a jury, taken promiscuously in the way they are, sitting in a box looking at delicate machinery at some distance off, to understand the nicety of movements which it is requisite for them to understand, in order to see whether the justice of the case rests with the plaintiff or with the defendant. They ought to be able to go and see the thing working, and to turn it round themselves, and see where the operation is from first to last, before they can thoroughly understand it. Too much now depends upon the ability of the advocate, as to which of the advocates can throw most dust in the eyes of the jury.

1565. It may be that you would have a question involving most complicated points of machinery decided by a Jury no one of whom has seen a machine of any kind at work?—That is so.

1566. And probably all parties concerned, the Judge, the jury, and the counsel on both sides, have acquired what knowledge they possess of the subject solely for that occasion?—Yes.

1567. I need not ask you whether you consider that a satisfactory state of things?—I consider it most unsatisfactory. I think that if we could have such an alteration made in the way of trying Patent causes as was made when the question was under consideration before with regard to the obtaining of Patents, we should come as near perfection as possible.

1568. Would you have a special Court constituted for the purpose?—Yes, I think that there ought to be a special Court—a Judge appointed who has capabilities for understanding machinery and chemistry; and I think that he ought to be assisted by two experts who should give their whole attention to it, and that one of the experts ought to be celebrated for understanding machinery thoroughly, and the other chemistry, and that both ought to know something of the whole; but still, I think, that they ought to be selected from the first men who could be found, and that they ought not to be allowed to practise on their own account.

1569. Would you have a jury with them or not?—I would have no jury.

1570. Would you have them only advising the Judge, and allow the responsibility of the decision to rest with the Judge solely, or would you give them a concurrent power with the Judge?—I think that the opinion of the majority of the three ought to be the decision.

1571. You think it better that they should be men permanently employed for that duty, than that the Judge should have the option of summoning to his assistance for the case such persons as he might think fit?—Yes, I do; because there are so few experts in this country who are celebrated, and I think that there would be a difficulty in the Judge summoning any one who had not been employed by the plaintiff or the

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defendant. I think that you would get a more disinterested and impartial judgment if their entire time was given to the duty. Besides that, if there was only one Court, I think that there would be employment sufficient.

1572. Would there not be a difficulty from the fact that a person engaged in that duty, and having nothing else to do, would soon lose his acquaintance with the new scientific processes which were going on, and would very soon be behind his time as regards matters of scientific improvement?—There would be that danger, unless they spent some time in looking up new inventions, and keeping themselves acquainted with what was going on.

1573. What would be their inducement to do that if they were employed for this duty solely, and were not allowed to engage in anything else?—That is a difficulty, I must admit.

1574. (*Lord Overstone.*) Is it not a difficulty somewhat similar to that of a Judge who feels himself obliged continually to keep up his knowledge of law?—I think that the cases which would come before them in Court would keep them informed upon what was going on, because it is always the most valuable inventions which are pirated. You may take out 100 Patents which are worth nothing, and nobody will copy them; but if you take out one good one, there is sure to be somebody imitating it, and coming, as the Patentee will consider, too close, and that is the case which they would have to try; and I think that these cases continually coming on in Court would keep those persons well posted up as to what was being done in new inventions.

1575. (*Mr. Fairbairn.*) If I understand you correctly, you propose that there should be a Judge and two Assessors, a mechanic and a chemist?—Yes; but both the mechanic and the chemist ought to know something of the other branch as well.

1576. You mean that both should have a general knowledge both of mechanics and of chemistry?—Yes.

1577. Have you considered how such a tribunal would work under these circumstances; whether the decision should be by the Judge alone or by all the three?—My impression was to leave it with the Judge, but still I think that the Judge ought to be influenced very much by the opinion of his assistants.

1578. That they should advise the Judge?—Yes. I am rather inclined to let the responsibility rest with the Judge.

1579. Suppose that the Judge took altogether a different view of the subject from that taken by the parties who assisted him?—That is the difficulty. I am not quite certain whether it would be better to give them a voice or not; but my first impression before coming here to-day was to leave the responsibility with the Judge, thinking that he would be advised by those who were appointed to assist him on mechanical or chemical subjects.

1580. You would, probably, make all three responsible for the decision, whatever it might be?—I should not like to pledge myself to an opinion upon that point. I should like to think a little more upon it before I said which would be the best course; but I apprehend that there would not often be a great difference.

1581. (*Chairman.*) Though you may not have worked out these various questions of detail very fully, you are quite satisfied that the present Courts are not what they ought to be for Patent causes, and that it would be advisable to have a special Court with some machinery in the nature of that which we have been discussing?—Quite so.

1582. You also think that Patentees, and those interested in Patent cases, would be satisfied without the supposed protection of a Jury?—I do. All the Patentees that I have ever seen are not favourable to juries for Patent causes where there are difficult and complicated questions. If they are easy to be understood there is no objection to a jury, but in difficult

cases, as they generally are, I think that a jury is not the best tribunal.

1583. I think you have also expressed the opinion that, assuming such a Court to be formed, it might likewise be conveniently employed in the preliminary investigation of claims for Patents?—Yes; I think that that would be better than the present arrangement.

1584. You mean, I presume, that in the event of the Law Officers refusing a Patent, or in the event of their feeling a doubt about the case, the intending Patentee might appeal to the Court, or the Law Officers might refer the question to the Court?—Quite so.

1585. So that there should be, in fact, an appeal from them?—Yes.

1586. (*Lord Overstone.*) Assuming a Court to be constituted, such as you contemplate, do you think that there should be any appeal from the decision of that Court?—I would admit no appeal from that Court.

1587. (*Mr. Grove.*) Would not you admit an appeal upon points of law?—Yes, upon points of law, but I am speaking now as to the fact.

1588. (*Lord Overstone.*) I understand you to state it distinctly as your opinion, that if a satisfactory Court was constituted, and also some additional stringency given to the preliminary examinations, you then think that the Patent Law of this country would be in a perfectly satisfactory condition?—I do.

1589. (*Chairman.*) Are you aware of the proposition which has been made as to the rendering it compulsory for a Patentee to grant licences for the use of his invention?—Yes; but although I think that every Patentee, for his own interest, ought to grant licences, still to make it compulsory by law, I think would land us in more difficulties than we are in at present.

1590. Although it may happen that a man is perverse or foolish enough to shut up his Patent from others, when it would be in his power to make a much more profitable use of it, you think that that is like any other case of an abuse of private property, not to be interfered with without greater inconvenience than the interference would avert?—Yes, I think that the remedy would be worse than the disease.

1591. (*Mr. Waddington.*) I suppose you must have some jury or some other tribunal to put a value upon the licence?—Yes, that is just where the difficulty is; the Patents may vary so much in value, and then, as it is in our own case, there may be Patent after Patent for improvements, there may be improvement upon improvement; and the difficulty is to say how much is to be paid for one Patent and how much for another; they are all combined in one machine, and to have it put to a third party to decide how much is to be paid in case of the Patentee and the licensee disagreeing, I think would be a most complicated arrangement and very difficult to work out.

1592. (*Chairman.*) In point of fact, to make that arrangement, even supposing it possible, would be totally to alter the nature of a Patent?—Yes, I think it would. It would be found exceedingly difficult to carry out; it is one of those things which sound very nice in theory, but it is very difficult when you come to get it into detail.

1593. (*Mr. Forster.*) It has been suggested that the Patent should expire in a certain number of years shorter than it does at present, unless licences were then granted; do you think that if there was such a regulation as that, the possessor and the public would not be able to make bargains together?—I do not think that it would be worth the paper upon which it was written, because the Patentee would escape it by putting an exorbitant price upon the licence.

1594. But the suggestion is that the Patent should expire unless licences were granted for a certain term of years, consequently he would lose the Patent altogether?—Then every Patentee would grant licences, but the price would be exorbitant.

1595. (*Mr. Grove.*) It has been suggested that in the renewal, the Court or whoever renewed the Patent should as it were fix the maximum, that just as in an

Act of Parliament you give a power for tolls up to a certain point, so here the Patentee should have his Patent renewed upon condition that he granted licences, but at a fixed sum, so much per ton, or so much per spindle?—That is where the difficulty would be; when you came to “per,” the difficulty would be to fix that amount, because there are so many Patents in one machine for various improvements in it, that to say how much the sum is to be for the particular Patent which you are going to let expire if the Patentee does not grant licences, would be very complicated and very difficult.

1596. (*Mr. Hindmarch.*) Besides that there are parts of machines, there is a Patent for the whole of a machine, and the use of a part may be an infringement; it would have to be decided how much was to be paid for the whole, how much for a part, and how much for each part?—Yes, you would, I think, get into such difficulties that it would not be simple enough to work well.

1597. (*Mr. Fairbairn.*) How would you deal with the case where a manufacturer has a Patent for a particular machine and he wishes to employ it exclusively in his own manufacture and to grant no licences at all if it is to his interest to do so?—I think it is rather a hard case not to allow him to do so, if he wishes to do it.

1598. Would you make it compulsory for him to grant licences?—No, I am against a compulsory licence.

1599. Then the public would be deprived of that patent if he chose to carry it on upon that principle until the expiration of the Patent?—I think that he ought not to be compelled to grant licences.

1600. But still it is to the interest of every Patentee to grant licences?—Yes, I think so; but you are putting the case where a man thinks it to be his interest to make all himself. I think he is mistaken in doing so, because he will have so many more infringers than he would if he granted licences.

1601. (*Lord Overstone.*) Your view, as I understand it, is this, that the temptation of price never fails to place at the command of the public the fullest supply of an article which can be produced?—Yes.

1602. (*Mr. Waddington.*) As a general rule?—As a general rule. I would not say that there are no exceptions.

1603. (*Mr. Fairbairn.*) It is very frequently remarked that people applying for Patents not only apply for a Patent but make a number of claims for a great number of improvements and different ways of doing the same thing, would you, under those circumstances, confine the Patentee to giving a clear and distinct Specification for one object alone?—I think that the general way of specifying a Patent is to describe fully what the invention is, and instead of having it drawn up at the end with a number of claims, as it used to be, it is generally worded that the Patentee claims substantially as described, and then it would be found out afterwards on trial as to what was new and what was old.

1604. (*Mr. Grove.*) But is that fair to the public, because it may be that some things are obviously new and some things are obviously old; but there may be a great many other things upon which people have great doubt whether they are new or old; the law at present is, that the Patentee should reasonably indicate what is new and what is old, or rather wherein his invention consists?—I think that ought to be done in the Specification.

1605. Do you think that it ought to be done more stringently than in practice it is at present done? The law at present is, that the Patentee should so particularly describe it; but complaint has been made that, practically speaking, that is not sufficiently adhered to in the administration of the law.—I think that the inventor ought to state where his novelty rests.

1606. (*Mr. Fairbairn.*) He may put in a number of clauses to cover any prospective invention or improvement which may take place?—Yes. I think

that a Patentee ought not to be allowed to do that. I think that he ought to be made to state where his novelty and invention rests, and rely upon that only.

1607. (*Mr. Hindmarch.*) In a Specification, framed as you have mentioned a minute or two ago, describing the whole machine, have you not known many instances in which it was extremely difficult for any one to say what was invented, or what was claimed to have been invented?—I do not know that I have found that difficulty.

1608. Is there any difficulty in describing in clear and distinct language what it is that a man has invented, if he really has invented anything?—I think that he ought to do so.

1609. Do you think that there is any practical difficulty in his doing it?—No, I do not see why there should be.

1610. You yourself have had a good deal of practical experience, I believe, as inventor?—No. I never took out but one patent myself.

1611. However, you have had your attention a good deal drawn to Patents and Specifications?—Yes.

1612. Do you see any difficulty whatever in Patentees expressing in clear and distinct language precisely what they have invented and no more?—I think that it ought to be done and that it can be done.

1613. (*Chairman.*) Have you considered the question whether it is expedient to grant Patents to importers of inventions from abroad not professing to be themselves inventors?—Yes, I think that it ought to be allowed.

1614. Do you not think that if any invention of value is used on the Continent if one person does not bring it over another will; is there any object in rewarding with a monopoly the first person who does so?—Yes; I think that the first person who does it ought to have the advantage of it.

1615. (*Mr. Hindmarch.*) Do you think that an importer should have the same degree of privilege granted to him as an actual inventor?—Yes, because practically, an inventor, when he wishes to secure his invention in another country, applies in time before anyone else can get it.

1616. (*Mr. Grove.*) That is where the importer is a mere nominal trustee for the inventor?—Yes.

1617. But there is another case which may be supposed; suppose that a machine invented in France, and published in the newspapers there, and suppose that a person accidentally reading those newspapers at Calais immediately crosses over to England and takes out a Patent for it himself, he may thereby exclude the real inventor from England, would you grant a Patent to such an importer as that?—I think that it ought to be done simultaneously with his Patent in France to prevent a case like that from occurring.

1618. That it should be, in fact, to the foreign inventor or his agent?—Yes.

1619. (*Lord Overstone.*) But not to an accidental observer of a Patent solely in consideration of his sagacity in seeing its utility, and his bringing it for the first time into another country?—I think that that would be best obviated by insisting upon the date in this country being very near the date in the foreign country, or otherwise, that the article should be ineligible to be patented. After it was printed in a newspaper I should say that it was public property. If an inventor abroad choose to let it be published before he takes out a Patent in England he ought to lose his right of having it patented in England.

1620. (*Mr. Waddington.*) He would lose it supposing any one had brought it into practice in England?—Yes.

1621. (*Mr. Forster.*) Do you think that the English public would be losers if it was made impossible for a Patent to be granted to an importer of foreign inventions; do you think that we should lose the inventions?—I have just been stating that I would make it come within the proper date.

1622. Supposing that the right to a Patent in such

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a case was taken away altogether, do you think that the English public would be losers by it?—I think that you would inflict a great injustice upon the inventor abroad if he were not allowed to nominate some one in this country to take out a Patent for him.

1623. But independently of the question of justice to the foreigner, do you think that the English public would be losers by that power being taken away from the foreign inventor?—I cannot see that the English public would be losers.

1624. It has been stated that the inducement of the English market is so great that it might delay the inventions; do you imagine that in the present state of commercial intercourse between us and the Continent that is possible?—I cannot see that there would be much injustice done to the public, but I think that an injustice would be done to the foreign inventor if he were not allowed to appoint an agent in this country to do it for him.

1625. You are in favour of the practice being continued in the interest of the foreign Patentee and not of the English public?—Yes.

1626. (*Mr. Grove.*) Might there not be this interest on the part of the English public that if England granted no Patents to foreign inventors, foreign nations would probably reciprocate, the consequence of which would be that a great many English inventions would be restricted in England, and open abroad?—Yes, that would be the natural effect.

1627. (*Mr. Hindmarch.*) But if Patents are to be granted to importers, ought not, in your opinion, the law to grant the Patent to those who obtain the invention with the leave or the concurrence of the actual inventor?—It might be that the inventor had sold his invention abroad to another party with all interest therein.

1628. Then he would concur?—He might be dead.

1629. (*Mr. Grove.*) You might make it the inventor or his assignee?—Yes, I think it ought to be the inventor or his assignee.

1630. Should not there be some requirement on the part of the Law Officers, or some other persons, that when applications for Patents for foreign inventions were made, there should be either an affidavit or some guarantee that something was being granted for the use of the inventor or his assignees?—Yes, I think so.

1631. (*Chairman.*) I think that you have paid some attention to the law as it respects disclaimers and memoranda of alterations?—Yes; with regard to the disclaiming of Patents as it now stands, a Patent may have something in it which is old and worthless, and it may have something in it which is very good and valuable; but an action being brought the inventor would be cast until he had disclaimed that which was bad in his Patent, and it is now left with the Law Officers of the Crown to decide whether he may hold those who have infringed the good part of the Patent liable to pay for it prior to the disclaimer or not. I cannot see why that ought to be left with the Law Officers of the Crown. I think that the inventor ought to stand in as good a position with regard to that part of his Patent which has been infringed after he has disclaimed, as though it had never had anything bad in it; that is to say, that those who have worked his invention before his disclaimer ought to be responsible for it.

1632. (*Mr. Waddington.*) Though they may have been right in thinking that his Patent was void?—Yes; his Patent wanted amending, but because it wanted amending that is no reason why people should use the part of it which was good, without paying for it.

1633. Still *non constat* that he would have disclaimed. At the time when they used it they had a right to suppose that it was invalid in law?—Yes, as the law stands now, but I think that the law wants altering in that respect.

1634. (*Mr. Grove.*) Would you not then be in this

difficulty; we will assume that a Patentee has a portion of his Patent which is invalid and bad, either from being not new, or from being imperfectly specified, or from some other reason, the public must be assumed to know that it is so invalid and bad, because they take the advice of their legal advisers before they use the thing, and they use it knowing or believing that it is invalid. Then if the Patentee disclaimed, would you let him have the power of proceeding for infringement as to that portion?—I would not make it retrospective. After the law was altered the public would know that if they used that which was new and useful in a Patent they would be liable to pay for it, although the inventor, by some mistake, had put something into it which was old and useless.

1635. You mean that if they had used that which was new and useful and which was not disclaimed, the fact of the Patentee having disclaimed other portions should not make them the less liable for an infringement of it?—Quite so.

1636. (*Mr. Hindmarch.*) You assume that to be a mistake, it may be that a man framing his Specification purposely puts in something which is old, and is holding out to the public a statement that he is entitled to that. If a man does that, do you think that he is entitled to such an indulgence, as to be allowed to make his Patent good, and then bring actions for bygone infringements?—Yes; I do not see any injury at all in that respect, because he is bringing his action for the part which was new and useful, and that is my case; that he is bringing his action for infringing something which is new and useful; and the fact of his having to disclaim something which is neither new nor useful ought not to put him out of Court, and prevent him from getting damages for what had passed prior to that.

1637. (*Mr. Waddington.*) You go upon the old maxim *utile per inutile non vitiatur*?—Yes.

1638. (*Mr. Grove.*) Supposing that there are 20 claims in a Patent and 19 of them are bad, you would still allow the Patentee to proceed for the infringement of the one good claim?—Most certainly, because it is only in the one good one that the mischief has been done.

1639. You know that at present the Law Officer has the power of enabling parties to bring actions for undisclaimed parts of a Patent, and that permission has been granted in one or two cases?—Yes; but as a rule the Law Officers do not grant it; and I do not see why any discretion should be given to them with respect to it. I do not see why an infringer ought not to pay the Patentee for that which he has been using of another man's, which was new and useful, and patented, because he happened to have something in his Patent which was not new and useful.

1640. I presume that the reason for which that power is given is this: that if the Attorney or Solicitor-General thinks that there is some very small part of the Patent which would deceive nobody, and that the substantial part of the Patent has been infringed, he would probably give leave to bring an action for such infringement; but that if on the other hand, he thinks that the Patent has been so mixed up with good and bad, that the public have been practically deceived by it he would say, "You must only proceed upon subsequent infringement 'when you have made the matter clear.'" Is not that a fair discretion to vest in the Law Officers with respect to disclaimers?—It would be for the defendant to show that he had not infringed the new part.

1641. The defendant infringes upon the belief that the Patent is altogether bad; he sees so much that is bad in it that he assumes the whole to be bad, and we will take it that he may reasonably assume it; then the Patentee disclaims or not some part which may be valuable, but which is a great deal mixed up with the other parts?—I think that when the law had been altered a party would not go on infringing a Patent when he knew that he was doing that which had been patented, and knew that it was new and

useful. I do not think that parties ought to be allowed to go on working that which is new and useful, and which has been patented by a man because he happens to have something in his Patent which is not new and useful. I think that they ought to be responsible for past infringements.

1642. (*Mr. Hindmarch.*) Suppose that a Patentee comes in the 10th or the 12th year of his Patent (a thing which is by no means uncommon) and enters a disclaimer, and then says to all persons engaged in a particular manufacture, "Now, you have been infringing a little bit of my Patent, and I will make you all pay;" is that a state of things which you think ought to be allowed?—Yes; but it would only begin to take place after the alteration of the law: any alteration which you made now would not allow a Patentee to go back from this time.

1643. Do you think it expedient that there should be such a law?—I do.

1644. (*Mr. Forster.*) Do you not think that the public are in some cases afraid to use inventions (at least, a part of the public) because they do not like to incur the risk of an action for infringement?—Yes; that is why I want to make it more simple.

1645. That being the case, do you not think that it would be a disadvantageous thing for the public if any encouragement were given to a man to be less careful as to whether he included in his Patent that which he had no right to include?—I do not see where the advantage to the inventor would be in putting in that which was old.

1646. Would there not be this, that he would obtain a monopoly over what was old, except in cases in which the public were to challenge his right to use it?—The parties infringing would, of course, have to make themselves informed as to what was new and useful.

1647. Would it not throw upon the public the necessity of doing a thing which it is not just that they should be obliged to do?—There might be a little danger of that, but I think that the balance, looking at it in one way and the other, is in favour of the position which I have taken in the matter.

1648. (*Mr. Grove.*) Does not it invert the onus—does it not, instead of throwing upon the Patentee the duty of stating clearly his invention, throw upon the public the duty of finding out what portion of his invention is new and useful out of a great number of other things—is that the proper onus?—is every tradesman to be bound to scrutinize all Specifications, which we may assume for our present proposition, have a great deal of useless and old matter in them, and to find out what portions are good?—There might be some danger in that.

1649. (*Mr. Hindmarch.*) Does not a Patentee or an inventor when he comes and asks for a Patent say this in fact to the public, "I know of something, which is new and useful, which you know nothing about?"—is not the policy of the law rather in saying that the burthen of proof and the duty should be cast upon him, to show that all that he claims is in truth both new and useful?—To the best of his knowledge.

1650. If that be so, would it be wise to create a different state of things, in which a person might be allowed to say, "I will keep a Patent for ten things, nine being bad, and at the eleventh hour, or just before the Patent is out, I will disclaim all but one, and bring actions against everybody who has been using that one?"—I am not prepared to say that there are not difficulties on both sides, but I think that the hardship on the inventor is very great.

1651. (*Lord Overstone.*) Your opinion is that the power of disclaiming is a just power to give to Patentees, although in certain supposable cases that power may be abused?—No, not abused in disclaiming.

1652. The meaning of my question is, that the power of taking out a Patent in such a form as has been stated in the presupposed cases, would be an abusive power in some instances, and the Patentee, you still think, ought not to lose the full value of his Patent, although he may have taken it out in a form

which, as exercised in the supposed case, might work hardship and injustice?—Yes. I think that if he has made a mistake in putting something in which is old, he ought to be protected for that which is new and useful, and to stand in the same position; at the same time, I must say that, from questions which have been put to me, there is a good deal to be said on the other side.

1653. (*Mr. Hindmarch.*) Supposing a Patentee to have granted a licence to use a particular part of his invention, I believe there is no difficulty in the way of his afterwards disclaiming that. In such matters as that, do you think that there should be any restriction upon the Patentee to prevent him from doing such a thing?—I would leave every Patentee to disclaim what he likes, and no licensee should prevent his disclaiming.

1654. Supposing a Patentee to have granted an exclusive licence to use a particular part of an invention, and to have taken a large sum for the use of it, would you allow that Patentee to go and disclaim it?—I think that a person taking an exclusive licence ought to guard himself against that by the terms on which he takes it.

1655. (*Mr. Waddington.*) He can easily provide against a disclaimer so as to enable himself to bring an action?—Yes; if a person takes an exclusive licence to a thing he becomes almost owner of the Patent and ought to have some control over the disclaimer.

1656. There might be an implied contract that the Patentee should not disclaim any part of the licence, but it would be easy to make an express contract?—It would be easy to make an express contract, and where the Patentee is licensing everybody who comes I think that he having the Patent in his own hand is the best judge of what requires to be disclaimed, and so long as the Patent is held in his own hand without let or hindrance from other people, he ought to be allowed to disclaim what he thinks proper; but if he grants exclusive licences, then those who take the exclusive licences ought to have something to say upon that subject, and to have an agreement with him.

1657. (*Mr. Grove.*) Did you say that you thought that any Patentee might disclaim whenever he liked, subject only to the whole of his disclaimer being an illegal one or that you would still have the Law Officers' permission?—I think that he should have the permission of the Law Officers as now.

1658. (*Mr. Fairbairn.*) If I understand you correctly, if the Patentee chooses to disclaim certain parts of his Patent and adhere to one part which is really useful to himself and the public, you would consider it as a valid Patent the same as if there had been no disclaimer at all?—Yes; that was the impression which I had when I came into this room, but certain questions have been put to me by gentlemen having much more experience than I have, which have shown me that here is a good deal to be said on the other side.

1659. (*Chairman.*) Is there any other point upon which you have suggestions to offer us?—I think that I have exhausted the printed questions which were put before me.

1660. (*Mr. Hindmarch.*) I think that you have been a good deal interested in designs?—Yes.

1661. You have spoken of a peculiar Court to be constituted for the trial of Patent causes. In your judgment, would it be an expedient thing to transfer all decisions respecting such designs to a Court of that description?—I think that all questions of appeal might be safely sent to that Court, but at present, where the parties agree, magistrates can try a case of the infringement of a registered pattern. I think it is well to leave that so, but in any case of appeal against the magistrate's decision, or if the parties were disposed to try it before the Court which I would constitute, I think that it would be the very best Court which they could have.

1662. (*Mr. Grove.*) Another matter might occur.

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Some persons have expressed a doubt whether there would be a sufficient amount of business for such a Court. Assuming that there is anything in that doubt, you are aware that there are a great number of cases, such as engineering contracts and nuisance actions, which are very similar and which require a similar sort of special knowledge in the Court to Patent actions; in your opinion, would it be desirable that the Judges should have the power of transferring those cases to such a Court?—Yes, I think that very desirable; and with regard to the costs of the new

Court, I think that they should not come out of the Consolidated Fund, but out of the surplus money for taking out Patents.

1663. The cases to which I allude frequently last as long and are as troublesome in interfering with other business as Patent causes?—Yes; although they are not called Patent causes they are practically very much of the same character, and would be very well disposed of in that Court if they had the time in addition to disposing of Patents and registering designs.

The witness withdrew.

T. Webster,
Esq., F.R.S.

THOMAS WEBSTER, Esq., F.R.S., examined.

1664. (*Chairman.*) I need not ask you whether you have had a very considerable experience in the working of the Patent Laws?—I have had a good deal of experience of the working of the law, and I have taken a good deal of pains about the alteration of it from time to time.

1665. You were a witness, I think, before the Committee which preceded the alteration of the law 11 years ago?—I was. I prepared the Bill which was ultimately passed by the Committee of the House of Lords. In 1851 there were two Bills introduced; they were consolidated into a third Bill, and that Bill was lost from want of time just at the end of the session, but it was passed with some alterations in the subsequent session.

1666. And since that time you have watched the working of the Act with a good deal of care?—I have.

1667. First, as to the cost of obtaining Patents under the present law, do you consider that that cost is excessive?—I do not, but I think that the cost is a secondary consideration. I certainly think that the cost is quite enough, and any alteration should be towards the reduction of the first cost, provided that you had the other sort of checks, which were contemplated by the Patent Law Amendment Act.

1668. Do you think that there would be any advantage in changing the mode in which the payment is made?—None whatever. I conceive that the periodical payment has answered most admirably. Great objections were urged against an annual payment; that is the mode of payment which exists in some countries, and it is said to be a continual trouble to the Patentees as no doubt it is; it leads to Patents lapsing without any good reason. I conceive that the present mode of payment has operated very well and that it is very judicious, because a party has the option of abandoning his Patent; and if it is a successful Patent the payment becomes a sort of tax to the exchequer, to which, in the case of a successful invention I see no objection in principle. But as regards the first payment I think that it rests entirely upon a different footing.

1669. Then we may gather from you that with regard to the cost you do not think there is much necessity for making any change?—None whatever; if there were any I think it should be towards the reduction of the first cost. With reference to that point I should like to say, that I know that a very great difference of opinion exists among inventors as to the operation of the second and third payments, whether they are omitted to be made by reason of the mere cost, or whether it is found more convenient to take out other Patents. I am not aware that we have been able to collect facts to enable us to arrive at anything like an accurate conclusion as to what is the cause of the great number of patents which drop. You have probably have had evidence as to the number; it is very large, and to that extent operates very beneficially.

1670. With regard to the present mode of obtaining Patents, do you think that the inquiry which takes place before the Law Officers is sufficient or satisfactory?—I think that it is not only useless, but positively mischievous in many ways. It is useless on many grounds; first of all you have two Law

Officers, and they have no means of knowing that the one may not be granting a Patent for the same thing as the other, and within my knowledge I can mention cases where five or six Patents have been granted within a very short time, containing if not the same thing, so much of the same thing that one Patent would vitiate the other. Therefore, as regards the present system, there is no means of communication—there is no community of information as regards what is being patented; practically almost everything is patented, and under a show of examination and inquiry there is really none. But I say that it is positively mischievous, because it gives encouragement to a large class of speculators, and it is, I believe, from the number of Patents granted to that class of people that almost all the objections which have been made to the Patent system arise. It is mischievous in this respect: persons trading in Patents, mere speculators, get the certificate of the Law Officer, which is supposed among the ignorant to have some effect, whereas it is known perfectly well that it has none, and I believe that the examination, such as it is, without doing any good, is positively mischievous in that respect.

1671. (*Lord Overstone.*) You think that the granting of a Patent by the Law Officers of the Crown upon an examination which you consider to be worthless, gives a fictitious character to Patents with the uninformed public?—I know that it does, and that it is used as such, and I believe that if the matter were examined into, and the statistics carefully taken of the class of Patents and the class of inventors, that would be found to be so. You may separate inventors and Patentees into two classes, the one class pure theorists and persons who have nothing to do with the existing manufactures, and the other class persons who have to do with the existing manufactures. The first class are mere speculators and theorists. I do not use that term at all offensively, because we know perfectly well that a great number of the greatest steps are due to people not connected with existing manufactures. The minds of persons connected with existing manufactures go on in a sort of groove, and they very often are the last persons to improve or adopt improvements when brought before them; but there are people who want protecting against their own ignorance. Persons trade upon this certificate of the Law Officers as an approval, which it is not, and is known not to be. Then, as regards the more legitimate class of inventors, those who are improving in their own line and in their own manufactures, they get no advantage from the investigation whatever; they receive no information as to what other Patents are going on, or as to what may be contained in existing Patents.

1672. (*Mr. Hindmarch.*) In that do you allude to what is called the provisional protection, which seems to give persons a show of a right?—I conceive that to be most admirable. I conceive that part of the new Patent Law cannot be spoken of in too unqualified terms of approval. Under the old system, you had no protection until the Patent was granted, which was very often six weeks or two months, and seldom less than a month after the application; that led to all sorts of practices, which were described before the tribunal on the examination in 1851 as

dodging and worse than horse-jockeying, whereas now you get protection, if you get it at all, from the day of application, and you have your rights limited to a certain extent by this provisional protection. You get a Patent after the show of an examination, whereas, in point of fact, there is no real examination.

1673. Patents are now granted as of the day of the application?—That is an alteration under the new law and a most admirable alteration.

1674. Therefore nothing which takes place after that date can be injurious to the Patentee?—Nothing whatever.

1675. Is not the show of what is called provisional protection beyond that mischievous rather than otherwise?—That is what I am saying. In the objection which I am now taking I do not draw a distinction between the provisional protection and the Patent, because I consider them for that purpose pretty much the same thing. I conceive that the provisional protection which a person gets in this way, without any real examination, and the Patent which he gets for the thing in that point of view, may be treated as the same. A person gets a Patent for what is old or worthless under the show of an examination, and thereby is enabled to trade to a certain extent upon the ignorant public.

1676. The reason why I put the question is this—according to the provision of the Patent Law Amendment Act, the Attorney or Solicitor-General is bound to examine the Provisional Specification, and find it sufficient to satisfy his opinion, and the result of that is said to be the grant of provisional protection, and I thought that it was to that that your observations applied. You are not objecting to that?—No, certainly not. I think that that provisional protection is a most admirable thing. I would only say, as regards that, that I think in practice the principle and the intention of the statute has been rather departed from, and that the rules which the Commissioners issued have led to Provisional Specifications being very much longer than was ever intended, and to occasion conflict between them and the Final Specifications, which, if the letter and the spirit of the statute had been adhered to, would not have been the case. The Provisional Specification, by the 6th section of the Patent Law Amendment Act, is to describe “the nature of the invention,” nothing more than that; the Final Specification is to describe “the nature of the invention, and in what manner the same is to be performed.” Then the Commissioners have made rules dated the 15th of October, 1852, which state that “the Provisional Specification must state distinctly and intelligibly the whole nature of the invention, so that the Law Officer may be apprised of the improvement, and of the means by which it is to be carried into effect.” Those last words have introduced a considerable change in the practice from what was certainly intended, and a confusion between the Provisional Specification and the Final Specification, which, when the patent comes to be litigated, leads to a great number of legal questions, and contributes very much to the expense of litigation, which would be wholly avoided if what I consider the true character of the Provisional Specification had been more carefully preserved.

1677. (*Mr. Waddington.*) And if they confined themselves to the nature of the invention only?—Yes; a practice has grown up in compliance with these words, introducing “the means by which it is to be carried into effect,” which has been the introduction really of what is the intention of the Final Specification, and, as every learned Judge knows, it leads to a great number of questions whenever the matter is tried.

1678. (*Mr. Grove.*) Were not those words probably intended merely to mean that sufficient should be given to show that it was practicable, and could be carried into effect; one can hardly suppose that they meant the same words as in the Final Specification?—That is quite true, but they do come very much within it, and the consequence is that the Pro-

visional Specifications are very often expanded into a length which certainly is very inconvenient, and which entails expense at every stage; they contain matters which properly belong to the Final and not to the Provisional Specification.

1679. Has not the effect of the Provisional Specification, coupled with what the Law Officers do, namely, in seeing that it is not a sham, but appears, at all events, to disclose some invention, been very much to prevent the fraudulent dealing with Patents which took place before?—It has prevented this fraud, which it was a great object to prevent, namely, that a person would take out a Patent with a general title, and would have an open Patent, as it was called, with a general title, and then, when he found any body interfering with him, he would get it sealed, and have six months to put in anything which he could sweep into the Specification by fair means, or others—anything which the title covered. That abuse it has entirely cured.

1680. (*Lord Overstone.*) You have stated that, in your opinion, the examination by the Law Officers of the Crown is a semblance only as regards any useful results, and that it is too much of a reality as regards mischievous results, by what changes would you propose to obviate those objections?—I would propose that the Law Officer should be required (not be at liberty, but be required), as he was required by the bills as they were settled in 1851, to call in some person, in the nature of an assessor or an examiner, for the purpose. Your Lordship is probably aware that a most important alteration took place in the Bills as they were settled in 1851 and in the Act of 1852, which was this; whereas, in the bills of 1851, it was compulsory on the Law Officer to have such assistance, in the Act as it passed in 1852 the alteration was made (I believe that no notice was taken of it at the time) that he should be at liberty to do so; that it should be optional. The consequence was that it left the new system precisely in that respect as the old one was, because it was always optional to the Law Officer to call in assistance if he pleased. I remember distinctly that the point whether it should be optional or not was a matter which was very much discussed in the Committee of your Lordship's House in 1851, and it was said that if it were left optional the system would in fact be defeated.

1681. Your opinion then is that the present state of the law should be brought back to the condition in which it would have been if the Act had been passed finally as proposed in 1851?—Yes, in that respect making it compulsory.

1682. Making the calling in of the aid of an assessor to the Law Officer compulsory?—Yes; that is to say, that every Patent at the first stage of the Provisional Specification, and at the subsequent stage if there was any opposition, should be subject to the examination of some skilled person or persons who should be thoroughly informed of what was done in that particular subject-matter, and who should advise the Law Officer respecting it.

1683. (*Mr. Hindmarch.*) What should he decide?—Upon the Provisional Specification he would decide first of all, the intelligibility of it; and secondly, the novelty of what was therein contained with reference to printed and published documents and prior Specifications.

1684. (*Mr. Waddington.*) Do you recollect what was the objection made before the Committee of the Lords to making the calling in of an assessor compulsory, was it expense or what?—The Committee of the Lords did make it compulsory.

1685. When you said that it was much discussed, I suppose there were some witnesses who objected to making it compulsory?—I do not think that there was any objection to its being compulsory. I think that the objection proceeded from some of their Lordships who were asking the questions rather than from any witnesses. A leading principle of the Patent Law Amendment as proposed in 1851 was that there should be some preliminary examination.

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1686. (*Mr. Hindmarch.*) You have spoken of the mischief produced by the present examination by the Law Officers. If there were such an examination as you have mentioned, namely, into the novelty of the alleged invention, would not the mischief to which you have alluded be still greater?—I think not, for this reason; I believe that the fact of such an examination being about to take place, and it being known to inventors that such an examination would take place, would stop a great number of Patents *in limine*. I believe that the applications would be much fewer than at present, because a party applying for a Patent would then be informed as to what had been done before, and he would be prepared upon it, and he would go on with his application with an amount of knowledge which he has not now the means of getting, excepting at an amount of cost which a large class of inventors cannot meet, and which all inventors shrink from because the result is at the best so very imperfect.

1687. Would you have such an investigation conducted for the purpose of advising the inventor, or for the purpose of deciding upon his right to a Patent?—Both; in this sense, that the inventor should be fully informed as to what official persons with the accumulated experience of official persons know to have been done before, and then with the view of refusing the Patent if it should turn out to be old; but I think that the question of absolutely refusing a Patent is a matter which requires some consideration.

1688. Do you think that it is any part of the duty of the public to provide advisers for a man who is seeking to have a Patent?—Yes, and I think that it would be very good policy. I think 25*l.* a large sum of money looking to the position of inventors, and the object of the Patent Law. If an inventor pays that for his Patent he has a right to ask for that assistance from the Officers of the public. 25*l.* is a large sum of money to a working man, and to the class of men who specially require this kind of protection. Capitalists have other means of protecting themselves, but I think that paying that sum of money the Patentee has a right to have something for it, and I think the best way in which you can give it him and protect the public, is by informing him as to what has been done before.

1689. (*Lord Overstone.*) I understand it to be your view that the interests of the public are involved in obtaining a well informed decision of the Law Officers of the Crown?—Clearly so.

1690. It is not the interest of the Patentee only that is to be protected by the better instructed information on the part of the Law Officers of the Crown, but the interest of the public?—Yes. I look upon it that every Patent granted, which is invalid, or for a thing which is old (which is the same thing), is a positive mischief both to the Patentee and to the public. It is a positive mischief to the Patentee, because he is spending this sum of money upon a matter which turns out to be fruitless. It frequently leads to a great deal of litigation, and it is an inconvenience to the public who may wish to adopt an invention in the same line.

1691. (*Mr. Hindmarch.*) According to the present practice, either the Attorney-General, or the Lord Chancellor would refuse a Patent for anything which was clearly old?—That is quite true, the theory is perfectly true. The theory of the present system is not objectionable; it is assumed that a Patent is a grant of a matter of favour and not of right; but what I complain of, is the practice. The Attorney-General, or the Lord Chancellor may refuse a Patent, but at what a frightful cost to the applicant and opponent. How many Patents in our experience, or during the last 20 years even, have been refused? You cannot go on opposing a Patent before the Lord Chancellor under 100*l.*, or a very large sum at all events.

1692. (*Chairman.*) The difficulty which occurs to us in such an inquiry as you propose, is this, that there would be, on the one side, the intending Patentee pressing his claim, and on the other side, there

would be no one to represent the public, and therefore there could be no security that the case adverse to the Patentee would ever be gone into?—It might lead to an investigation of a greater extent, perhaps, than would be prudent. The party representing the public is the paid Officer, the Examiner, he is bound to inform himself, he has the matter brought before him, described with a certain amount of detail in the Provisional Specification. If it is not sufficiently described to be intelligible than the party has not complied with the condition, and has not described the nature of his invention; but having described it in a manner which is intelligible, this paid Officer is bound to inform him, and to protect the public by such information, as to what has been done before, and if he should do his duty very imperfectly you would have an accumulation of cases, which would very soon prove that such Officer was unfit for his office.

1693. (*Mr. Hindmarch.*) Then would you cast upon such an Officer the duty of informing himself of the nature of every invention up to the day of inquiry?—Certainly, so far as practicable. There are elaborate indices in the Patent Office. Of course, no examination of that sort can be perfect, but because you cannot make a thing perfect, and because you would pass perhaps 10 patents out of 100, which you ought not to pass, is that any reason why you should not try to stop the 90?

1694. You are perfectly aware, by your practice, that there are a great many inventions and discoveries coming out in manufactures which are never patented at all?—Certainly.

1695. How would persons who have a right to use such inventions and modes of manufacture be protected by such an inquiry as you have suggested?—You cannot do it; an inquiry of that sort must be to a certain extent imperfect; but are you to have no inquiry because you cannot have a perfect one, such as would enable you to give a guaranteed title to the Patent? That objection appears to me to amount to this: because you cannot give a guaranteed title to the validity of a Patent, therefore you will not do that which will have the effect of stopping, *in limine*, one-third of the Patents applied for, with the assent of the applicants.

1696. Then would you say that the only inquiry should be a comparison of the invention sought to be patented with the other inventions already published in writing?—Certainly; that is a large class of cases as to which the Officers ought to give the information, and as to which I think, the inventor, in consideration of the money which he pays, is entitled to have the benefit of the accumulated experience of the office. If other persons came forward and said, "I have used it," I would not exclude that enquiry. That, however, goes to another and to a totally distinct question, with reference to the public, which rests upon a totally different footing, and which, I think, is a very important consideration upon another question, namely, the trial of litigated Patent causes.

1697. Supposing the inquiry to be limited in the way you have just stated, is it not rather the duty of the person seeking for a Patent himself to compare his invention with the prior Specifications to which he has access?—No doubt, but it is so onerous a duty that he will rarely perform it.

1698. (*Sir William Erle.*) Have you informed yourself how many Patents could have been rejected by actual induction? I know that Mr. Woodcroft has turned his attention to the subject, and will give the Commission very important information upon it; he has looked at 100 Patents of one date, and 100 Patents of another, and 100 Patents of another, in order to see how many he could with his knowledge have rejected as bad: have you ever looked to that?—No; I have frequently had brought before me five or six Patents for the same thing within two or three years, or perhaps, even within a year. I remember a remarkable case of a Patent for an improvement in railway wheels where there were as many, I think, as six Patents

almost within six months. That is an extreme case wherein an Officer of this kind would at once reduce them and be of immense service. They were not all six identical, but the probability is that, perhaps, we may assume that each of them had something different from the other. That would be a matter for elimination by the Law Officer.

1699. (*Mr. Grove.*) Do you find this in that respect: when a new discovery is made, do you find that a new discovery being made there is a rush of a great number of Patents, many of them differing extremely little from each other?—No doubt.

1700. There are, perhaps, 30 or 40 Patents, where not above two or three are substantially new inventions?—Yes; the moment a want is felt or a new idea of that kind is started (placing it as a scientific fact, which would not in itself be the subject of a Patent) the moment there is some discovery, which shows some practical application, you have the minds of ingenious men at work, and multitudes of Patents granted for the same thing.

1701. (*Mr. Forster.*) Am I to understand that your answer means this, that after a discovery has been made, many patents are applied for?—By “discovery” I mean the discovery, for instance, of some chemical property, or the application of some property, of matter of recent discovery, or a certain effect, for instance, in dyeing; that becoming known as a chemical law, then persons rush to obtain patents for different applications and different modifications of it.

1702. (*Lord Overstone.*) As I understand it, whenever, from any circumstance whatever, a strong desire on the part of the public for inventions or contrivances directed to a particular object is created that is immediately followed by a great number of applications from persons who conceive, rightly or wrongly, that they are able to minister to that want?—No doubt.

1703. I remember, that before the Committee of 1851, a witness described himself as a professional inventor, as a man whose business it was whatever the public, or any individual of the public told him they wanted to have invented.—Yes.

1704. Have you any idea that any such class of persons exists now?—I will hardly say that they exist as a class; but certainly there are a number of people having more or less talents in that line and who go about inventing. No doubt there are a number of ingenious men who see what is wanted and who apply their minds to it, and who make that their business; there are certainly several people of that class who have made inventions connected with railways; but I believe that you could hardly say that they exist as a class, though, no doubt, there are a number of persons who would satisfy that condition.

1705. (*Mr. Grove.*) If I understand you, you consider that, by the examination which you think should be instituted by the Law Officers, you would practically, although you could not draw a nice line of demarcation, get rid of a good many Patents which are worthless?—I am perfectly satisfied that you would get rid of a very large number, and you would do this, which is more—the party would have got from it the very best possible advice, which it is beyond his power to get even from the most skilful professional men.

1706. Would you do that without any substantial risk (though you might occasionally do it) of shutting out valuable inventions?—I think you would, because I assume that the objections would be stated in writing; that the party applying for a Patent would be referred to such and such a Specification or book, and it would be said “Your Patent cannot be granted because the invention exists in such a publication,” and then the inventor himself would look to it, and it might very possibly happen that there would be a good deal of truth both in the inventor’s view and the Officer’s view, and the result would be that perhaps the Patent would be granted with some modification, but for an invention which was clearly new.

1707. (*Lord Overstone.*) Do you think that the preliminary examination of Patents might be rendered more stringent than it now is without incurring any serious danger of excluding useful Patents, but with a considerable increase in the probability of excluding pernicious Patents?—I do. I may say that was the opinion expressed and supported by a great number of witnesses before the Lords’ Committee in 1851, and upon that the clauses in the Act were formed for the purpose of requiring such examination.

1708. Especially those clauses which required the examination and not merely permitted it?—Yes.

1709. And you think that it has been a great detriment to the reform made at that period, that the original intention of rendering the preliminary examination more positive and necessary was relaxed?—I do; and I would say more than that; that the Act of Parliament has not been carried out in its spirit as to the powers which do exist.

1710. (*Chairman.*) Would you carry that preliminary inquiry into the question of the importance and utility of an invention as well as the novelty?—I would not on any account.

1711. You would exclude that entirely?—Entirely.

1712. You would grant a Patent for anything, however apparently frivolous or trifling, provided this only were proved, that no similar invention was recorded at the Patent Office?—I think that that would be the safer course. I do not like to concur in an opinion perhaps expressed precisely in that way, that a Patent should be granted for anything, however frivolous, but I say that it is difficult to decide what is frivolous; and when one hears these objections, I should say to the persons making them, “tell me an instance of a frivolous Patent and let us see how we will deal with it,” because what may appear frivolous to one person may be useful in many instances.

1713. (*Mr. Grove.*) A Patent, for instance, for the shape of a lady’s hat?—That is not the subject of a Patent at all according to law.

1714. It is a very great question; I believe it has been decided preliminarily as not being the subject of a Patent; but assume for argument’s sake that it is an existing Patent. Take another instance, the shape of an omnibus, which was patented; the cut of a shirt frill?—I would not use the term “frivolous,” but would say that it is not the subject of a Patent at all.

1715. (*Mr. Forster.*) Can you suggest any mode by which you could make it perfectly clear that such things ought not to be patented?—I should say that you must rely upon what is the obvious meaning of the statute, “any new manufacture,” and those can be no new manufactures. It may be a new manufacture to pleat a frill in a certain way with machinery. There is a very important class of fabrics which is simply pleating frills, but having pleated the frill in a certain manner by machinery, it can be no new manufacture to alter the outline of it so as to make a new design.

1716. In your experience in Patents do you know whether Patents are claimed for such things as these?—I certainly have not heard of a Patent, either for a frill or for the shape of an omnibus, but I have known things not very far from them.

1717. (*Mr. Grove.*) The frill Patent was this, that a certain cloth is manufactured, which you may see in the bodices of lady’s dresses with bands united by pleats, and the Patent was for cutting that so as to make two frills out of each bit of pleated cloth, it would be difficult off hand to say that that is not the subject of a Patent?—You might leave that to be discussed.

1718. (*Mr. Forster.*) Would you suggest any mode by which the preliminary investigation should be so conducted as to shut out such a case as that?—I think that the Law Officers and the examiners ought not to express an opinion upon such a thing as that, but should send it forward.

1719. Your improvement would not remedy that evil if it be an evil?—No, but I think that the number

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of cases of that sort are so few that it might be disregarded.

1720. (*Mr. Grove.*) There are a vast number of minor cases which may be the subject-matter of a Patent in law, but which are the result of the necessary progress of every common trade, and are the modifications which one would assume that a party ought to be allowed to make when he is making boots, shoes, hats, or a vast number of other things; would it not be desirable, if you could, to let all trades have that power of reasonable modification and not be shut up by Patents?—"Shutting up by Patents" is an expression which is not very intelligible and which I do not understand. If a man makes an improvement, it may be a small one, and of greater or less value, he is entitled to be remunerated for it. And when you talk about shutting up trades there has been a great deal said about obstructive Patents, but I say give me the instances. It is very easy to sit down and say, "Should not a person have the right of going on in the same line as one who is opposed to him?" I think that that is a theoretical rather than a practical objection, and I do not agree in what has been said about the so-called obstructiveness of Patents.

1721. (*Mr. Hindmarch.*) You have said that you would not allow the Attorney-General to inquire whether a thing was the subject of a Patent; do you mean to say that if the Attorney-General sees, from the Provisional Specification, that the invention sought to be protected is not the subject of a Patent, you would take from him the power of refusal?—I would not do that, but I would have an appeal where the Law Officer thought fit to refuse a Patent, which appeal does not exist now, and that is a part of the vice of the present system. The Law Officers constantly grant a Patent having doubts about it, and constantly allow a disclaimer, having doubts about it, because, if they do not do it, there is no appeal; that I think is a vicious system. I think that there ought to be publicity and appeal. In the present practice you have privacy and no appeal, and I think that a great vice of the present system is the privacy and the absence of any power of appeal in case of the refusal of an application.

1722. (*Mr. Grove.*) The theory of the Patent Law is that, by granting a monopoly for 14 years to an inventor, you secure in the long run more new inventions to the public; but there is a class of minute improvements which may become the subject of Patents, as at present considered, and which, by giving a monopoly for 14 years, would shut out or impede progress far more than if there were no Patent at all; that is to say, that, in the ordinary course of common manufactures, those improvements would necessarily suggest themselves. Is it desirable that those things should be, as I term it, shut up, that is to say, that the Patentee should have the power of threatening anybody who makes those little modifications with litigation, which may be very serious to the person threatened, but which it is worth the Patentee's while to incur?—I think that, taking the proposition as you state it, it is undesirable; but then, I think, that it is an imaginary case, and I cannot conceive that you can have that continuity of invention in any particular trade which would lead to that class of evil, and if you had, I am not sure whether the proper remedy would not be a compulsory licence.

1723. I may tell you that, from the evidence which we have had here, it is not an imaginary case, because we have had strong instances—we have had evidence here that there are a great many of these small matters with which tradesmen are frequently threatened?—All I can say is, that I have heard a great deal about objections to Patents, not, perhaps, put so precisely as you put them; I have asked for the instances, and I have not yet had them. If you can bring instances before me, I shall be obliged to you.

1724. We have been told that Patents are constantly taken out for the shape of boilers for steam engines, mere modifications in shape, which Patents have a very injurious effect, because they prevent the en-

gineers from really exercising their ingenuity in adapting the shape of a boiler to the particular circumstances which they require. That they are met constantly by Patentees saying, "You must not use that shape, I have patented it;" and another Patentee comes with a different shape, and so there are very many Patents merely upon the question of the shape of a boiler?—I should say that the mere shape of a boiler is not the subject of a Patent at all, that it is a misapplication of the Patent Law.

1725. (*Chairman.*) Does it not come to this, that there is no clear or satisfactory definition of what is a proper subject of a Patent?—I do not think that it does. I think that that is a matter which has created very little difficulty. We have recently had some decisions of the Courts, that inventions were not sufficient in amount to support a Patent. I think that it is a practical question. You have something which is new; that precise thing has not been done before, is it an improvement? is it worth a man's while to Patent it? do the public appreciate it? has it a money value? If so, it has a degree of utility which has generally been taken to be evidence of its being the subject of a Patent.

1726. (*Lord Overstone.*) Would not that apply to boilers?—No doubt, to a certain extent it might, but you must draw the line somewhere. As regards an alteration in the shape of an article, you are trenching upon what I will call the Designs Act, as to which there is a clear distinction. The mere configuration, whether of a fabric, or of an article of dress, or of an article of manufacture, is not "the working or making of any manner of new manufacture," which are the words of the statute.

1727. (*Chairman.*) May it not happen, that upon the configuration of a boiler will depend the doubling or the diminishing by one half, of the working power which is got out of it?—I should hardly think so; but, at all events, that would not be the subject of a Patent. The Patent must be for something new in the construction of the boiler; it must be a new manufacture of a boiler, in this respect, to wit, that a boiler has not been made in that way before; it will have been made in that way before if it is made substantially in the same way, simply excepting that the plates are put in of a little different shape.

1728. (*Mr. Hindmarch.*) Take the case of a wheel used on a common road with ordinary carriages, and applied to a railway carriage; it might, of course, be of very great value so applied, but I think that the law is, that such an application is not the subject of a Patent. But would not such an application come within the explanation which you were giving us some time ago. It might be a great improvement, and might have great money value?—That is probably one of the disputed questions. You say that that has been decided not to be the subject of a Patent. The decision went upon this, that in that case the inventor claimed the construction of the wheel; the identical wheel existed before; the application was a new or double use.

1729. (*Mr. Grove.*) Take the introduction into this country of such a material as gutta-percha, a person could hardly take out a Patent for prohibiting the use of gutta-percha by anybody *simpliciter*, he would be obliged to limit it to some manufacture of gutta-percha, which would be a very considerable limitation of his invention?—He would not take out a Patent for prohibiting its use for all purposes; he takes out a Patent for dealing with it so as to make it a useful article. In these cases I think that a great deal of the fallacy is in the argument by reason of the terms in which the proposition is started.

1730. A person who introduces gutta-percha into this country, introduces a thing which is a most valuable aid to a vast number of manufacturers, and, which is certain, within five or six years, to become very largely used for a variety of purposes. He could not *simpliciter* Patent it. He could not Patent the mere introduction of a known material. He must Patent it in its application to something special and

particular. He must Patent the manufacture. He could Patent the application of gutta-percha to the covering of a wire, or something of that sort. Although he cannot foresee all its uses, he confers a great benefit, whereas you give to the man who introduces afterwards a minor benefit, a greater privilege than you give to the party himself?—I think not. Gutta-percha existed as a raw material, but in its state as a raw material it was useless. A man got hold of it, and he masticated it and dealt with it by a certain series of processes, and thereby made an article which was useful, namely, the cleansed gutta-percha. This series of processes, heat, and steam, mastication, and rolling, and so forth, practised upon the raw material, made a manufactured gutta-percha.

1731. But is that so?—That was the case with Hancock's invention.

1732. But that was india-rubber?—Charles Hancock had a gutta-percha Patent.

1733. (*Sir W. Erle.*) Has anybody attempted to define "new manufacture"? Has anybody attempted to define what is a fit subject for a Patent?—Yes.

The witness withdrew.

Adjourned.

Wednesday, 13th May 1863.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
HORATIO WADDINGTON, ESQ.

W. R. GROVE, ESQ., Q.C.
W. M. HINDMARCH, ESQ., Q.C.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

HENRY REEVE, ESQ., examined.

1736. (*Chairman.*) I believe you have paid a good deal of attention to the subject of the Patent Law, the administration of which comes before you officially?—I have filled for the last 25 years the office of Registrar of the Privy Council. Her Majesty in Council has the power of extending and confirming Patents under certain Acts of Parliament. It is my duty to conduct that part of the business of the Privy Council, and that has necessarily brought under my notice one portion of the administration of the Patent Law, namely, that which relates to the extension and confirmation of Patents.

1737. The state of the Law I believe is this, that a Patent can be taken out for 14 years only, but there is power in the Privy Council to extend that period for 14 years more?—The Act of the 5 & 6 Will. 4. c. 83., gave to the King in Council the power of extending Patents about to expire, for seven years. Some cases arose in which I apprehend the Legislature thought that seven years might not be long enough to remunerate an unsuccessful Patentee, and accordingly the 7 & 8 Vict. c. 69. enlarged to 14 years the period for which a renewal can be granted; but the power has only been exercised in one or two instances to the full extent.

1738. These cases are invariably referred to the Judicial Committee of the Privy Council?—That is the provision of the statute.

1739. Can you state to the Commission in how many cases, since that power has existed, extensions have been granted?—I have had an extract made from the records of the office which I will put in. The total number of applications from 1835 to 1862 inclusive, for prolongation has been 137; for confirmation 7. I should have stated before that the statute which I have referred to gives the Privy Council not only the power of prolonging Patents which are on the eve of expiration, but also in certain cases of confirming disputed Patents in the course of their existence. That provision has been very sparingly used, as the Commissioners will perceive that only seven petitions have been lodged for the purpose, and only one has ever

1734. The Judges always decide in the concrete. There comes a question of gutta-percha, there comes a question of a railway wheel; but what would be very important, would be a definition of the subject of a Patent, so as to exclude these outlying matters?—This has been attempted. Authors have started from the words of the statute, and have classified existing Patents under certain terms. I think that almost all the attempts have gone back to the old words, "the working or making of any manner of new manufacture." They are very large words. There, no doubt, are certain improvements which require some stretch of language to be brought within that; but I am not aware of any case which has really failed, simply from not being brought within that language.

1735. (*Mr. Hindmarch.*) The question is rather this: could you suggest any definition which would sufficiently include all that ought to be patented, and exclude all that ought not to be patented—going beyond the terms of the Act?—No; I do not think that I could.



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been granted. Of applications for the prolongation of Patents 62 have been granted; of those granted 48 have been granted to the Patentees themselves, and 14 to assignees; 46 applications have been dismissed, and of those dismissed 28 were applications on behalf of the Patentee himself and 18 on behalf of assignees; 29 have been withdrawn. At this time there are lodged and pending for 1863 eight cases.

1740. Dealing first with the confirmations, can you state to the commission in what cases that power is vested in the Judicial Committee of the Privy Council?—For that purpose it will be necessary to refer to the Act of Parliament, but I may answer the question in this way, that the second section of the 5 & 6 Will. 4. c. 83., sets forth the intention of the Legislature, and to a considerable extent the mode in which the proceedings are to be conducted.

1741. (*Mr. Grove.*) Does not the object seem to be to prevent a Patentee being defeated by some obsolete matter being raked up which has escaped from the public knowledge altogether?—I believe that was the intention of the clause. One of the cases of confirmation argued at great length before the Privy Council was that of Stead's Patent for wood pavement. The question was whether there had been a user in some other part of the kingdom not known to Mr. Stead; and the intention of the clause was, if it should appear that a Patentee had taken out a Patent, and there had been a user unknown to such Patentee, it should be lawful for the Queen, on the recommendation of the Judicial Committee on being satisfied of the truth and of the *bonâ fides* of the Patentee to confirm his Patent which otherwise would be held to be invalid in a court of law.

1742. (*Chairman.*) But that is a procedure very rarely resorted to?—Yes.

1743. (*Mr. Hindmarch.*) There was a great deal of discussion upon that point in an anchor case?—In Honiball's Patent it was discussed at great length.

1744. Was not that a case of confirmation?—Yes, but it was not successful.

1745. (*Mr. Grove.*) Hurlteloup's was another case?

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—It occurred at the very beginning of this jurisdiction, and I think it was the only one that was granted.

1746. (*Mr. Hindmarch.*) In that case the only publication of prior use was a book deposited in the British Museum; I think a French book?—I have no personal knowledge of that case.

1747. (*Chairman.*) In the case of confirmations, is the proceeding solely *ex parte*, or is it commonly opposed?—The Act provides that any person opposing such a petition shall be entitled to be heard before the said Judicial Committee, and *caveats* are entered precisely as they are against prolongations. It is open to the whole public to oppose these applications.

1748. In practice, has it been found that confirmations have been contested?—I think all of them have been contested.

1749. Have you anything to suggest upon the subject of confirmations?—No.

1750. Dealing with the question of prolongations, can you state to the Commission what has been the average length of time for which Patents have been extended?—I should say that the time varies from three to six years.

1751. What is the minimum period?—I think that none have been granted under three years, and very few over six; five is perhaps the commonest length of time.

1752. Is there any instance of the full time of 14 years having been granted?—That term was granted to Lord Dundonald for what he called his rotary marine steam engine.

1753. When applications are made for the prolongation of Patents I suppose it is open to anybody to oppose them?—The form which is provided by the Act of Parliament, and also by the rules of the Judicial Committee is that these applications must be largely advertised both in the Gazette, in London papers, and in newspapers near the places of residence of the petitioner or manufacturer, and the public have a given period of time indicated in the advertisement within which they must bring in a *caveat*; having brought in a *caveat* they are entitled to be supplied with the papers, and proceed in the case as they think fit. They are also called upon, within a certain limited time, to lodge objections in a written form, which contain the substance of the allegations to be urged against the extension of the Patent, and when the hearing comes on they have a right to cross-examine the Patentee's witnesses by their counsel, and also if they think fit to produce counter evidence.

1754. I presume it is impossible to lay down any rules as to what the conditions shall be of granting a prolongation, that is a matter which must rest wholly in the discretion of the Court, and they can be guided only by their own judgment as to the hardship of the case?—The power exercised by the Privy Council is unquestionably discretionary, and cannot be said to be subject to any strict rules of law. On the other hand a Patentee has, no absolute right to obtain an extension of a Patent; it is regarded as an application to the grace and favour of the Crown, under circumstances which appear to warrant the exercise of such a power. The jurisdiction was in fact transferred to the Privy Council from Parliament, for the Commissioners are doubtless aware that before the Act of the 5th & 6th of William 4. extensions of Patents were occasionally granted by Acts of Parliament in the nature of privileges. When Lord Brougham and Lord Lyndhurst caused this Act to be passed, both of them taking great interest in it, they also sat in the Privy Council to administer it, and they then endeavoured to lay down, with the authority which belonged to them, in the cases which came before the Privy Council, and which are reported, the rules by which their lordships should be governed in dealing with these cases. Their lordships have always said that the first condition for extending a Patent must be the ingenuity and merit of the invention. The second condition must be a certain amount of public utility, inasmuch as very ingenious inventions

have been sometimes brought before them which did not appear to have been sufficiently worked, so as to be regarded as useful inventions. The third, and most important point of all in their Lordships' consideration has been the inadequate remuneration obtained by the Patentee. These rules they have always laid down, and have generally endeavoured to enforce; of course on all these points a certain variety of opinion may be entertained, particularly as to the remuneration. Many cases have come before the Privy Council showing an absolute loss, and these are the easiest to deal with. There are also cases not unfrequently of a certain amount of gain having been realized, but a gain which the Patentee deems quite inadequate to the merit of his invention: on that point opinions may more or less differ.

1755. When you speak of an inadequate return of profit from a Patent being recognized as a cause for its extension, is it possible for the Court to take into consideration how far the want of profit has been due to bad management on the part of the Patentee, from his not being a practical man of business?—Undoubtedly they would inquire into that question, and a Patentee must show that he has exerted himself in every possible manner; that he has done all that lay in his power to bring the invention into public use, and to make the world acquainted with it, and also to obtain that amount of custom which a meritorious invention may determine. With your Lordship's permission I will read a few words from a judgment recently pronounced by the Master of the Rolls, with the full concurrence of the other members of the Judicial Committee, which will have far more weight than anything I can say upon this point: "The grounds upon which their Lordships' grant extensions of Patents, all have reference to the inventor himself. They are, in the first place, to reward the inventor for the peculiar ability and industry he has exercised in making the discovery; in the second place, to reward him because some great benefit, of an unusual description has by him been conferred upon the public through the invention itself; or lastly, because the inventor has not been sufficiently remunerated by the profits derived from his strenuous exertions to make the invention profitable. All these grounds proceed upon the supposition that the invention is a new and useful invention." These are substantially the same grounds that I have indicated.

1756. I presume that it must be a matter of great difficulty ever to come to any decision as to the degree of skill and activity with which a Patentee has carried on his business?—That is a question of evidence.

1757. But if it is not possible to ascertain that very satisfactorily, does it not come to this, that of two inventors, whose inventions may be considered equal in regard to merit and utility, the one who has managed his business well is allowed only 14 years' monopoly, while another, as the reward for having managed his business badly, has a monopoly extended to him for 20 or 21 years?—That is my opinion of the effect of the measure. Your Lordship and the Commission will observe, that these considerations rest mainly on the short comings or failure of the Patentee, sometimes, no doubt, attributable to circumstances not within his control; but it is exceedingly difficult for the Privy Council, especially in unopposed cases, to arrive at a clear knowledge of those facts; and there is the greatest possible difference at the Privy Council between cases that are opposed, and cases that are not opposed. I ought to have mentioned that the Attorney-General is instructed in all these cases, to appear on behalf of the Crown, that is, of the public, and to watch the cases, and if he should think that they do not present a sufficient claim for the intervention of the Privy Council he has a right to address the Court in that sense while watching the proceedings. That has always been done with ability by successive Attorneys-General; but the Attorney-General having, in unopposed cases, no knowledge of the circumstances, except what he can gather from the papers and the evidence of the Patentee, is quite in

the dark, as indeed the Court itself very often must be, as to the real history of the Patent.

1758. Do not you suppose that in an unopposed case, it would always be in the power of a Patentee to make out a plausible case, and to show that his failure was not due to any fault of his own, where it was solely *ex parte*?—That, with the assistance of able counsel, he seldom fails to do.

1759. (*Mr. Grove.*) Are you able to show from your statistics in the unopposed cases how many have been granted and how many refused, and in the opposed cases how many have been granted and how many refused?—Of the 62 applications for prolongation which have been granted, 23 were opposed and 39 were unopposed; of the 46 applications which have been refused, 26 were opposed and 20 were unopposed; of the 29 applications which have been withdrawn or abandoned, 18 have been opposed, 11 unopposed. It appears from these figures that the proportion of successful applications is far larger in those cases which are unopposed than in those which are opposed.

1760. (*Mr. Waddington.*) Do you remember many instances in which the Attorney-General has made serious objection?—The Attorney-General frequently cross-examines the witnesses, and it has not at all unfrequently happened that the Attorney-General has expressed an opinion extremely adverse to the extension of a Patent. There was a remarkable case a short time ago, Betts's Patent for capsules, in which the Attorney-General estimated the profits at about 10,000*l.*, and thought that amount of profit was as much as the invention deserved, but their Lordships were not of that opinion, and they extended the Patent for five years.

1761. Notwithstanding the intervention of the Attorney-General to the contrary?—Yes.

1762. (*Chairman.*) Do you think that that is a satisfactory mode of proceeding; do you think it possible for any Court, in a majority of cases, really to get at a knowledge of what a man has gained or lost by a Patent?—I should say that it is almost impossible to arrive at an accurate and certain knowledge. In the first place patentees, who are very often men of genius, but not men of business, tell the Court that they have kept no accounts; on the other hand they may be men of business who are engaged in other trades, perhaps as manufacturers, and the accounts which strictly appertain to the Patent are mixed up with the accounts of the other business, whatever it may be, which they carry on. It is exceedingly difficult, therefore, to discover how much appertains to the invention, and how much appertains to their ordinary pursuits in business.

1763. If a man carries on business as a manufacturer, is it possible for him, assuming on his part a desire to tell the truth, and nothing but the truth, to calculate precisely how much of the profit of his business he owes to a particular improvement?—It appears to me to be almost impossible, unless it is of a peculiar nature, and that he does nothing else.

1764. Then, upon one of the three points which are considered by the Judicial Committee as a reason for granting a prolongation, even assuming the honesty of the witnesses, it is barely possible to obtain satisfactory evidence?—That I think is the impression of those who have watched the proceedings in these cases.

1765. Further than that, in that necessary and indeed inevitable uncertainty, a scrupulous man who comes forward to prove his own case, is at every disadvantage, while an unscrupulous man has every advantage?—Undoubtedly.

1766. (*Mr. Hindmarch.*) Do you think any advantage would arise from the appointment of an official accountant to whom the parties should always be bound to submit their accounts?—I think that something might be done by the Court in the way of introducing stricter rules; indeed I have lately required the accounts to be lodged rather earlier; but it is not possible either for their Lordships, sitting judicially, or for the Attorney-General, who attends

their Lordships, to verify accounts. I therefore think that the assistance of an official accountant would be very important. I may say, in answer to this question, that cases have arisen in which their Lordships being dissatisfied with the mode in which the accounts were presented, have adjourned those cases for the express purpose of referring them to an accountant named by the Court.

1767. (*Mr. Grove.*) Would it not be a better plan to employ an accountant *pro hac vice* unless you could give some one a high judicial salary; and would there not be some danger in employing a person who would have a voice potential on a question of accounts?—This is for the consideration of their Lordships. The Registrar of the Privy Council has by statute the powers of a Master in Chancery, and if their Lordships thought proper to refer to me the investigation of the accounts it would be my duty to take it. I apprehend that an official accountant would be a more competent person, but their Lordships have the power, undoubtedly, under the Act of Parliament, of referring these questions to any person they may think fit.

1768. (*Lord Overstone.*) Can you state in those cases in which the Judicial Committee has appointed a special accountant to investigate the accounts of an applicant what has been the result?—The result in one case was that the petition was rejected.

1769. Has the result of such investigations been such as to give confidence to the Court in the efficiency of those investigations?—I think it has.

1770. You think the Court are of opinion that an accountant, appointed by themselves to investigate the accounts, will arrive at a correct estimate of what may have been the profits from the Patent?—An accountant can only deal arithmetically, so to speak, with the facts brought before him; he has not the power to administer oaths, or to verify the entries in books except by other books. I apprehend that an accountant can, in no case, exercise what may be termed a judicial investigation, that must be left for the Court or its officers.

1771. Accounts may be badly kept from an ignorance of account keeping, from carelessness and negligence, or from fraud. I wish to ascertain whether, when investigations are ordered by the Court, the result is such as to satisfy them that they have arrived at the bottom of a case, and ascertained what has been really the result of working a Patent when they have to obtain that result through the medium of accounts which are incomplete from one or other, or all, of those three causes?—My answer, I think, would be different in relation to each of those causes. If the accounts were simply badly kept, the intervention of a competent accountant would probably clear up the obscurity and satisfy their Lordships. If they had reason to suspect fraud or suppression, or either wilful or accidental omission, I do not perceive how the intervention of an accountant could clear up that difficulty. I think I may say that there have been cases in which their Lordships have been dissatisfied, and have expressed their dissatisfaction, with the modes in which the accounts have been presented to them.

1772. Generally speaking, is it your impression, from your observation of the proceedings before the Privy Council, that you can, by the investigation of accounts, arrive at a satisfactory conclusion as to the real profits obtained from a Patent?—I am of opinion that it is impossible to arrive at a clear and certain knowledge of the true profits arising from a Patent, and I think the Court has, on more than one occasion, publicly expressed that opinion, not as a general rule, but in more than one case it has expressed that opinion.

1773. (*Mr. Grove.*) Where, as is frequently the case, a Patentee deals in his own patented article, is there any possible mode by which the value of the Patent can be assessed, as contra-distinguished from what may be called his trade profits?—It appears to me to be almost impossible. In the case that I referred

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to just now, Mr. Betts was the inventor of a sort of metallic compound, which is produced by rolling; it was an ingenious invention, and he is also, I believe, a very large manufacturer of those capsules that are put over bottles to contain liquids or pickles. I do not know that it was practicable to distinguish what attached to the invention of this metal from the manufacture of his capsules; that was one of the difficulties which their Lordships felt in that case.

1774. (*Chairman.*) Looking at it in a more general point of view, do you think the question of the amount of profit that has been made by a Patentee ought to be considered. The principle of the Patent Law, as I understand it is, that as a reward for having made an invention which is useful to the public, the inventor shall be allowed to have a monopoly of its use, or to charge the public for it during a certain number of years. The duration of the Patent is therefore a question between the inventor and the public; if the inventor has not made out of his invention as much profit as he expected, and as was possible perhaps under better management, is that any reason why the public should be, so to speak, fined by being deprived of the use of the Patent for an increased number of years?—In my opinion it is not, and it operates in one peculiar manner which I should wish to point out to the Commission. When a Patent is first granted, it always has, or is assumed to have, novelty; that, indeed, is an essential part of the consideration. Of course when a Patent has expired and is renewed it never has novelty, because it has already been in use for 14 years. The effect of that is, that whereas the invention, at its first starting, being a thing unknown, interferes less with other existing inventions, after the expiration of 14 years you are, as it were, going back to the state of things which existed 14 years before, though the probability is that great progress has been made in science and in machinery in that period, and you are therefore keeping alive, by a new Patent, an invention which may interfere with more recent discoveries.

1775. (*Lord Overstone.*) I presume that, in the case of an application for the prolongation of a Patent, the *onus probandi* rests upon the applicant; that is to say, he must prove first that he has not obtained due remuneration from it; secondly, that that has not arisen from culpable inactivity on his part; and thirdly, that it has not arisen from any essential, or inherent defect in the invention itself?—Precisely.

1776. The applicant must prove all those points before he can obtain the decision of the Court in its favour?—Undoubtedly.

1777. (*Chairman.*) With regard to the other two questions which are considered by the Judicial Committee, the ingenuity shown in the invention, and its utility to the public, I presume that the utility to the public can be proved by evidence of the extent to which the Patent has been actually used?—With regard to the utility to the public, that may be inferred from the vehemence of the opposition. If an invention is useless, it matters very little to anybody whether the Patent is renewed or not, it probably will not be opposed, and it is a matter of little consequence; but when a strong opposition is made, and sometimes as many as 14 caveats have been entered against the renewal of a Patent, it may be confidently said that in those cases the invention is one of public utility.

1778. The logical conclusion would be from that, that the less the extension of a Patent is opposed, the smaller are the grounds for extending it?—That is of course the inevitable result; the more the learned Counsel at the bar prove that a Patent is of infinite merit and value to the public, the more, in my humble opinion, it is undesirable to the public that it should be renewed at all: at any rate the concession made by the public then becomes one of greater value.

1779. With regard to the ingenuity shown in an invention, that must always be, must it not, a mere matter of individual opinion?—Yes; but unless the ingenuity is backed by public use, and by utility, it counts for nothing. The other day the Judicial Committee

had before them an electric telegraph of extraordinary ingenuity, which conveyed, I think, designs, and which appeared to be a very ingenious invention, and had, to a certain extent, been tried experimentally; but it had never been used at all for practical public purposes, and their Lordships thought it not a fit case for renewal.

1780. (*Lord Overstone.*) Active opposition to the renewal of a Patent proves on the one hand the utility of the Invention to the public; but does it not also tend to raise a strong presumption that the Patent must also have been a source of considerable profit to the Patentee?—It undoubtedly raises that presumption; but I presume that the opponents are mainly animated by their knowledge of the effect which the expiration of a Patent will have upon their interests.

1781. (*Mr. Hindmarch.*) Does it not also show that there are many persons who think that a prolongation of a Patent may interfere with the working of other Patents?—Precisely, and that is what I intended to convey; for instance, other persons may either be conducting a trade, or may have other Patents. It rarely happens that anybody invents anything wholly; all inventions are dovetailed and joined into one another, and the possession of a link in the chain of invention very often stops and circumscribes the utility of all the rest, therefore whenever a Patent of merit and value is about to expire there are many persons anxious to avail themselves of it, and frequently, I believe, its expiration sets to work other inventions which could not be used as long as that Patent existed.

1782. (*Lord Overstone.*) Are there many cases of Patents, or the inventions to which they refer, being in themselves very little use, but which Patents are very pernicious in obstructing the inventions of other persons?—I do not think that I can answer that question from my own personal knowledge or experience, it does not extend so far; but I have heard that argument used by highly qualified persons.

1783. (*Mr. Grove.*) You were referring to opponents of Patentees in the capacity only of being persons in trade, who were affected, or thought themselves to be affected, by a Patent. Does it not often happen that the opponents are persons who have been, during the whole period of a Patent, litigating the matter with the inventor?—That is often the case; but then the cause of that litigation is very often the same that the noble Lord just now pointed to; that they have rival or cognate inventions which clash with the one they are opposing.

1784. Or do not the trade take up a rival patent for the purpose rather of defeating the party whom they oppose, is not that also a very frequent ground of litigation?—I have no doubt of it.

1785. (*Mr. Hindmarch.*) In all these cases of prolongation are not the Judicial Committee very much in the hands of experts, as they are called, or scientific men, who come to give evidence upon matters of opinion as to inventions?—I think that the practice of supporting these cases by scientific witnesses has rather diminished, and is much less resorted to than it was in the earlier times of the jurisdiction. In the first place, at that time, a Patentee himself could not be examined; but the law of evidence having been altered in that particular, their Lordships always examine a Patentee as to the merit of the invention. I do not think that their Lordships are much guided by the opinions of experts.

1786. Then, in what way do they adjudge?—By the models, the accounts, and the results of the Patent brought before them; they use their own judgments upon the results which have been obtained from it.

1787. If an invention is not adopted by the public at all, that, I presume, could hardly give them any assistance?—The counsel always lay a luminous and succinct account of an invention before their lordships, it being a matter of science, which, to a certain degree, is demonstrated before them; it is not a matter on which the evidence of a person is of very much weight.

1788. There is an office of the Commissioners of Patents, and there are some persons of skill there ; in your judgment, would it be of use to the Judicial Committee if reports were presented to them of all the cases which were about to be presented to them for adjudication?—That proposal has never been made, and I was not aware that there were the means of obtaining those reports, but I should imagine that if they emanated from disinterested persons, officers of the Government, such reports might be valuable.

1789. A gentleman named Woodcroft has been before this Commission, a gentleman of great skill in matters of that sort, if a report were made by a man of that description, in the case of a proposed prolongations of the merits of the case, would not that be a very useful thing for the Judicial Committee?—I think it would depend in some degree upon the manner in which such reports would be received by the parties. It probably would be said at the bar that such reports would prejudice the case to be decided by the Privy Council, and that it would be very difficult for the Privy Council to arrive at an opinion favourable to the Patent, if the report of such an officer, who, though no doubt a competent person, occupies an inferior position to their Lordships, were in reality held to determine the question. If it were so, the report would, I presume, be produced; it would be warmly assailed by the one side, and warmly defended by the other; and it would be in fact therefore a transfer of the jurisdiction to an officer of the Patent Department.

1790. (*Mr. Grove.*) Is not all the advantage that could really be got by such a proposal obtained by the present system of judicially watching the cases by the Attorney-General; he sees the case developed, and is entitled to express his opinion, and indeed to argue it as a counsel not directly concerned for either of the parties?—I think so; there would be great difficulty in admitting scientific evidence, even on behalf of the Government, unless you were certain that it was perfectly disinterested, as the parties would entirely object to any bias which it appeared to convey.

1791. (*Mr. Hindmarch.*) The Attorney-General does not in practice call a witness?—No, but he might. Lord Overstone observed just now that while the *onus probandi* is thrown on the applicant, he must satisfy the Court that his invention is one of ingenuity and public utility; he does that in various ways, according to circumstances, by calling such witnesses as he may think the best able to convey that impression to their Lordships' minds.

1792. Did you ever know a case presented to the Judicial Committee in which the applicant was not able to adduce some evidence of that description?—Yes; I have known of such a case, and I mention this to show to what very small points the jurisdiction has sometimes been brought, or attempted to be brought. The other day a man applied for the extension of a Patent for a carpenter's brace, which is a mere tool. I believe the invention consisted in making it revolve on one point instead of on another—it was a very small affair. Their lordships were of opinion that it was too inconsiderable a matter to exercise their jurisdiction upon and they dismissed the petition; but in that case there was really no evidence of merit at all.

1793. (*Chairman.*) After what you have stated with regard to the practice in prolongations, do you consider that any advantage arises to the public from there being a power vested in any authority to extend a Patent beyond 14 years?—I think that this jurisdiction has been created, and is necessarily exercised entirely from views of compassion towards meritorious Patentees, but that the interests of the public have been rather sacrificed than not by the exercise of that jurisdiction. I know it is argued that it is the interest of the public to encourage invention, and that you encourage invention by extending Patents and renewing them when they have been unsuccessful although meritorious, but I think that this indirect effect is exceedingly remote, and in point of fact, it must be acknowledged by any person who

has watched the administration of this law, that the sentiment which prevails in the minds of those persons who have administered it has been one of compassion for meritorious Patentees who have not met with an adequate reward. It is rather an application *ad misericordiam* than anything else, consequently an advantage has been given to an individual at the expense of the public.

1794. The only cases, as I understand you, that would come properly within the scope of this privilege, are cases where the invention is of great public utility, but where, nevertheless, the public does not use it, and where, therefore, an invention useful in itself has produced no return to the Patentee without any fault of his own. Is that a case that occurs once in a thousand times?—Yes; rather more than that. I should be sorry to be understood to say that it never occurs, or that it has not occurred a considerable number of times; perhaps out of the 62 cases I should say 20 are perhaps cases of real merit and importance, and which would come within the conditions laid down by your Lordship.

1795. (*Mr. Waddington.*) Are there cases in which the public has just begun to use an invention, and of which the real value is perfectly clear from the circumstance of their having used it for three or four years?—Precisely; there are many cases in which the argument is this, that in reality the merit of the invention was not found out for 10 or 12 years, or from other causes the Patentee had derived no advantage from it. I would venture to cite another case to the Commissioners—the very last that occurred. I allude to Mr. Bovill's invention for an improvement in grinding corn. It is admitted by the Government to be an invention of the greatest possible merit, a great saving of expense, and a great improvement in the results, an invention of very high merit indeed; inasmuch that after infinite labour, and a perfect combat with the authorities, Mr. Bovill succeeded in having his mills introduced at Deptford dockyard and other places; and I believe that before long all the Government corn for the navy will be ground by those mills. That may be taken as sure proof of very high merit and public utility; but it sometimes happens, as it did in that case, that by a combination of the trade, and by incessant litigation, and various other causes, a man is kept out of the benefit of his Patent for a very large part of his term, and it is not till about a year or two before the conclusion of it that there is any hope of reward. In that case there could be no two opinions as to the merit of the invention; it also appeared that the profits have been extremely small, and their Lordships gave Mr. Bovill an extension of five years.

1796. (*Chairman.*) Is not that precisely the case of an Invention having been largely used, and in which a direct reward by the State might have been privately granted?—Yes, precisely. Mr. Bovill's invention was precisely one of those which was of use to all millers, but peculiarly useful to the Government. In the meantime the effect of the extension, although Mr. Bovill was entitled to all consideration, is that it enables the Patentee to charge a royalty of 6*d.* a quarter on all the corn ground in Great Britain by millers who may think it desirable to adopt his plan.

1797. The Government gain the advantage, and the community pay for it?—Yes.

1798. (*Lord Overstone.*) Is it not the case in many instances that an invention which has ultimately proved to be meritorious and useful remains not properly understood, and therefore not adopted by the public until some accidental circumstance removes that difficulty, and then the public burst as it were at once into the active application of it?—That undoubtedly sometimes occurs, and I have no doubt that there are many meritorious inventions, especially of this very novel character, which are precisely the most difficult to bring into use.

1799. The principle of the Patent Law, as I apprehend it, is this, to stimulate invention and to reward

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the inventor by granting him a temporary monopoly of the benefits of his inventions?—Exactly so.

1800. The determination as to the duration of that temporary monopoly must necessarily be an empirical act, for you can, upon no principle, decide that seven years is more proper than eight, nine, or 10 years, whether the period for which it is granted is the period which will give the inventor his due remuneration can only be known by experience, is not that so?—Yes; but if that doctrine were to be acted upon, the law would have, or some administrative power would have, to adjust the terms of the Patents in every case, for they all differ; one man may be largely remunerated in three years, and another man may not be remunerated in 14 years.

1801. But that period being settled generally by law, is it not expedient, for the purposes of justice, and also for the full accomplishment of the principle of stimulating invention, that there should be in some competent tribunal a discretionary power, in special and strong cases, to correct the defects of that empirical process of fixing the period for which a monopoly is granted?—That there should be some such power, I think, must be admitted: it existed in Parliament before the present jurisdiction of the Privy Council was established, inasmuch as in some few cases, Parliament interposed to grant new Patents; it might also be converted, as was suggested by the noble Chairman, into a reward by the State to a great public benefactor; but you must deal with these exceptional cases as they arise.

1802. Do you think that any other mode of dealing with these exceptional cases can be suggested better than the existing one?—My impression is, that although infinite care has been taken by the Judicial Committee to investigate these cases, which their Lordships have done under a sense of judicial responsibility, for that was the intention of the Act of Parliament, yet the working of the present system has not been satisfactory to their Lordships themselves.

1803. Can you suggest any other system which you think would hold out the probability of being more successful?—It is difficult for me to answer that question. I should say not, by the existing system of Patents; but supposing a revision of the Patent Law to be contemplated, and some authority created with a greater and more thorough control of Patents, I can imagine such a commission or authority to be invested with some discretionary power which might be used more effectually than it is by the Privy Council.

1804. Can you define more clearly the idea you have broached in your last answer, of some important change in the present system of Patent Laws that would facilitate the means of getting over the difficulty as to prolongations?—I have not directed my attention very specially to this part of the subject, which I humbly conceive to be a matter of deliberation for this Commission; anything that I venture to submit, I do it with the greatest diffidence, but I have imagined that it might be suggested, that whereas the issue of Patents generally is now a matter of common right, very little controlled at least by the Attorney-General, something in the nature of a controlling body, partly judicial, and partly scientific, might be created, that would exercise some control over Patents, both in the original granting of them and also in renewing them. If such a body existed, and if it were armed with great authority and great judicial strength, I should say that if any body was to renew Patents such a body would be the fittest to renew them.

1805. You refer to a preliminary inquiry by a well-constituted tribunal before a Patent was granted?—Yes. I meant to convey that, supposing that principle were adopted, and that a body was created, a board capable of making that preliminary inquiry, and exercising that species of control upon the original grant of a Patent, then I should be disposed to say that some board of that kind would be better qualified than any other to entertain the question

which may, in some few instances arise, whether a Patent ought or ought not to be renewed.

1806. (*Mr. Hindmarch.*) If you had no preliminary examination before the granting of Patents, do you conceive that it would be useful to have some preliminary inquiry before the renewal of them, it might be very inexpedient in the one case, but it might be highly expedient in the other?—That I understand is what the Judicial Committee are anxious to do, and the inquiry which takes place at their Lordships' bar upon oath, and under the sanction of a proceeding before a high Court, is precisely that species of inquiry; the word "prolongation" or "extension" is commonly applied to these things, but it should be borne in mind that it is a renewal, that the Letters Patent issued on the recommendation of the Judicial Committee are new Letters Patent, and their Lordships have even power, under the last Patent Act, to introduce into those new Letters Patent, or of directing the Chancellor to do so, any conditions which they may think fit.

1807. (*Mr. Grove.*) You consider that the cases in which it is desirable that a Patent should be prolonged beyond 14 years are very exceptional, or that practically speaking, more harm than good is done by the power of granting prolongations?—That is my opinion.

1808. Have you ever considered the question whether, if Patents were granted for shorter periods, for seven or 10 years, with a power then to prolong them for 14 or 15 years, that would meet your views, that is to say, supposing a Patent to be remunerative within a reasonable time of its inception, 10 years might be long enough, and if it met with great trade opposition, or with peculiar circumstances which did not bring it into profit till after 10 years, then to give a power of extending it on to 14 or 16 years?—If that view was adopted of course it would apply very largely and to an immense class of Patents. Assuming that the Commissioners are of opinion, and the public appear to be of that opinion, that, if Patents are to exist, 14 years is a reasonable period, there may be some cases in which large profits are made in seven years, and there may be others on which it is demonstrated that in a shorter period a Patent is of no use. In that latter case where it is shown that a Patent is of no use at all, I think it would be a great public advantage to have some means of quashing it altogether. I have no doubt that there are numerous instances of Patents which are of no use, but which stand in the way, and are used as a means of litigation to embarrass other inventions.

1809. Would it not be much less expensive to quash a Patent if the period were made shorter?—Yes.

1810. (*Mr. Hindmarch.*) Have you found that no practical inconvenience has arisen from the fluctuating nature of the body constituting the Privy Council; does that or not introduce into their decisions a good deal of variation in the mode of dealing with the questions which come before them?—Their Lordships are extremely desirous to act upon the principles which have been laid down in the reported cases, as in the case I referred to just now; they have always endeavoured, as far as possible, to give uniformity to the spirit of their decisions; at the same time it must be observed that where the principles which regulate their jurisdiction are not principles of strict law or equity, but that a large discretion is vested in the court, you cannot expect in decisions of this kind so much uniformity as you may in the decisions of a court of justice administering law.

1811. (*Mr. Waddington.*) What is the construction that has been put upon the words "due remuneration;" is that the remuneration which is considered to be due to the value of the invention?—It undoubtedly makes a part of the consideration, but that is precisely a subject to be discussed at the bar.

1812. (*Mr. Hindmarch.*) Is there not some little difficulty arising from this circumstance, that a Patentee has frequently received a very large amount of remuneration from the public, but has spent nearly the

whole of it in litigation?—That is one of the matters that are brought before the Judicial Committee.

1813. In a case such as that the public have already given the Patentee the remuneration which they ought to give him; but ought the public to give it over again 'because he has lost it in law?—The Judicial Committee have generally held that losses in litigation, although they may be considered to entitle a man to some compassion, are not fairly to be taken as a set-off against the profit of the invention.

1814. (*Mr. Waddington.*) Have you observed that the words in the statute are confined to "due remuneration" for his expense and labour in perfecting the invention, which seem to exclude remuneration due to his talent and to the ingenuity of the invention. Has there been any decision in any case in which it has been expressly stated that they took into consideration the value shown by the ingenuity of the invention as well as of the expense and trouble of bringing it to perfection?—I have not present to my mind any cases; but I have no doubt that in Webster's Reports of Patent Extensions, the Commissioners would find several cases in which those views have been laid down by Lord Brougham, that the extension was not only to be confined to strict remuneration or indemnification for the cost and labour of the Patentee, but that the merit of the invention was also to be paid for.

1815. (*Chairman.*) You say, that these applications for extensions are very much looked upon as appeals *ad misericordiam*. Do you think that in the case of two Patents, under precisely the same circumstances, as to public utility, and as to non-productiveness, if one claim was brought forward by a large capitalist, say a manufacturer, and another by an Inventor without capital, that the latter would have any preference over the former; that the charitable view of the case would be taken?—The Judicial Committee have repeatedly had this question brought before them; sometimes the case of a poor Patentee and sometimes the case of a rich Patentee; but more commonly where the Patent has passed into the hands of assignees, who have perhaps subscribed money to work it. The Act of Parliament, the 7 & 8 Vict. c. 69, expressly provided, by a declaratory enactment, that assignees were to be equally competent to receive extensions of Patents with the Patentees themselves.

1816. (*Mr. Waddington.*) I believe the assignees are not mentioned in the first statute?—Not clearly; some doubt arose upon that point, in consequence of which the second Act cleared up that doubt. There is no doubt that numerous applications have been made by assignees, and the Privy Council have had to consider a fresh difficulty. Assignees are commonly capitalists who have purchased a Patent right from an Inventor; the Inventor must be taken, therefore, to be discharged from his interest in the Patent, and to have received an equivalent which he must be supposed to have considered remunerative, since he has divested himself of the Patent in exchange for it. Then, what is the position of the assignees? The Privy Council have laid it down that a commercial company holding a Patent is not entitled to the same amount of consideration as a Patentee or an inventor. In the case of the Electric Telegraph Company, they had purchased Mr. Wheatstone's Patent, for 30,000*l.*, consequently the Patentee was adequately remunerated; he did not petition for an extension of the Patent, but the company which had invested this sum of money, as they had not gained so much advantage as they anticipated, applied for an extension of the Patent, and on that occasion Lord Langdale, then Master of the Rolls, used these words: "We do not say it would be right to take into consideration the mere commercial transactions of a company of this sort, if it had turned out that the contrary had been the case. They buy this Patent right; they buy it for a commercial purpose, not at all with the view of encouraging the inventors, or of rewarding the inventors, though,

"when they are sinking their own capital in this particular mode, they do incidentally give a profit to the inventors. It is not the same case as some cases which have arisen, where the inventor, being himself struggling with difficulty for the want of capital, is obliged to obtain the assistance of persons who have capital, giving them a share of the profits, which may be done in a great variety of ways, and under many different circumstances; but those parties, with a knowledge of the value of the invention and its capability of being reduced to practical use to any extent to which capital might be employed upon it, think fit to engage that capital in carrying on a trade by the use of this particular invention." In that case their Lordships declined to prolong the Patent; and I think this shows that the view taken by the Privy Council is, that the personal claim and merit of an Inventor have a very large share in the extension of a Patent, and that they are not prepared, as was laid down in the case I have just referred to, to deal with the same degree of liberality with a capitalist.

1817. (*Chairman.*) If they make it a matter of personal reward, do they consider the character and conduct of the applicant?—His conduct, his energy, and activity in bringing his invention into use, and perhaps I may add that there are some circumstances which inspire a peculiar interest in the invention. I remember the case of a workman, a man in an extremely humble position; but who had invented some very important addition, I think it was to cotton spinning machinery. Their Lordships justly thought that that was a meritorious and interesting invention, and they extended the Patent, although it was in the hands of an assignee, but they annexed to it the condition that the original inventor, the workman, should have a certain profit out of it; I think 400*l.* a year, and that of course raised him above his original condition. I mention this case to show that, undoubtedly, personal considerations have a real weight, and it has been thought right, and that the intention of the Legislature was, that they should have weight.

1818. Then, in point of fact, a prolongation operates sometimes as a sort of charitable relief and sometimes as a personal reward, the cost of granting the reward falling upon the community at large?—Yes, undoubtedly.

1819. (*Mr. Hindmarch.*) In answer to one of the Commissioners a short time ago as to the construction of the Act of Parliament, and as to the meaning of the words "due remuneration," for expense and labour and so on, those words, I believe are in the 7th and 8th Victoria. I believe there are no words to show what the prolongation is to be granted for, in the first statute section 4 merely gives a power to prolong, without saying what for?—I find nothing in the 4th section of the original statute which implies any motive or ground at all, it is simply that the Judicial Committee may report to His Majesty a further extension of the term, and His Majesty is hereby authorized and empowered, if he thinks fit, to grant new Letters Patent.

1820. There is no criterion according to which the Privy Council can act?—No, it is a mere matter of discretion. In some few cases a power has been exercised in the case even of imported Patents.

1821. But more sparingly?—Yes; it has been held by the Judicial Committee that no Letters Patent can be granted in this country for an original foreign Patent, if that has expired before the new Letters Patent are applied for.

1822. That, I believe, turns upon some of the sections in the subsequent Act?—Yes, in the last Patent Act.

1823. (*Mr. Grove.*) Has not litigation been regarded in this light, that, but for the litigation, the Patentee would have received due remuneration, the litigation not arising from any fault of his own; but being in some sense a testimony to the merit of his invention on the part of the trade, and coming there-

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fore in aid of the Patentee, as showing that the litigation has caused a subtraction from what otherwise would have been his profits?—Undoubtedly, that has had, to a certain extent, that effect, however difficult it is to defend it on principle; for instance, in the case of Betts's Patent, the actual receipts, I believe, were extremely large; but Mr. Betts had been engaged in enormous litigation, principally with his own family, and I suppose it must be taken that a deduction was made from his profits on that ground.

1824. There had been very great litigation in that case; but I believe the only litigation the Privy Council took into their consideration was not that which he had had with his family, but the litigation he had had with opponents of his Patent, as in the suit of Betts and Menzies?—There is no doubt a distinction, which the learned Commissioner has justly pointed out, in the nature of litigation. Litigation may arise on questions of property which have little connexion with the merit of the Patentee, and the litigation which I now remember their Lordships thought ought to be subtracted was this—Mr. Betts had been obliged to sustain a very protracted struggle in order to defend the validity of his Patent; it was at last decided by the House of Lords, that his Patent was valid, and he recovered costs as far as costs were recoverable; therefore it must be regarded in this way, that he defended himself against infringements by the only means which the law placed at his disposal, and the expenses be sustained for this purpose were unavoidable. At the same time it must be acknowledged that if his Patent was renewed, he was indemnified for those expenses by the prolongation of it for so many years. I may mention that for the purpose of reference, in the Commissioners of Patents Journal, Nos. 549, 716, and 769, all the cases which have been before the Privy Council have been published; there is a digest of all the applications and of their results,

The witness withdrew.

so that any person wishing for further information can obtain it in this publication.

The following paper was handed in:

TABLE showing the Number of Applications to Her Majesty in Council for Prolongation or Confirmation of Letters Patent, distinguishing those granted, dismissed, &c.

Total number of applications from 1835 up to 1862 (inclusive):—

For Prolongation	-	-	-	-	137
For Confirmation	-	-	-	-	7
					144

For Prolongation.

Granted	-	-	-	-	62
To Patentees	-	-	-	-	48
To Assignees	-	-	-	-	14
Dismissed	-	-	-	-	46
On application of Patentees	-	-	-	-	28
" " of Assignees	-	-	-	-	18
Withdrawn	-	-	-	-	29
					137

For Confirmation.

Granted	-	-	-	-	1
To Patentee	-	-	-	-	1
Dismissed	-	-	-	-	6
Application of Patentees	-	-	-	-	5
" " Assignees	-	-	-	-	1
					7
Total	-	-	-	-	144

Lodged and pending in 1863, 8 cases.

Monday, 18th May 1863.

PRESENT:

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
HORATIO WADDINGTON, Esq.
W. R. GROVE, Esq., Q.C.

W. M. HINDMARCH, Esq., Q.C.
W. E. FORSTER, Esq., M.P.
WM. FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

ALFRED VINCENT NEWTON, Esq., examined.

A. V. Newton,
Esq.
18 May 1863.

1825. (*Chairman.*) You have been a Patent Agent for a considerable number of years?—Yes.

1826. As to the question of the cost of obtaining Letters Patent, do you think there is any reason to complain of the present expense incurred in obtaining Letters Patent?—No, I think there is not.

1827. Do you think any improvement could be made in the manner of making payments?—The present mode of making payments I objected to on principle before the present Act was passed; and when I say that the cost of obtaining a Patent is not, in my opinion, too great, I allude to the first cost of a Patent. I think that payments at the end of the third and the seventh years are objectionable; but under the present circumstances, it being assumed that the law is to be changed and that considerable expense would be incurred in founding for example a special court to try Patent cases, or to investigate matters that are now not investigated, I think it would be inexpedient to alter the payments which are made in the third and seventh years.

1828. You would, I presume, put it this way, that though it is not expedient that Patentees should be called upon to contribute to the general revenue of the country, yet, that they may be fairly called upon to pay any special expenses incurred in obtaining their Patents?—Precisely so; but with respect to the mode

of paying those instalments, I think that a worse mode than the present could not have been contrived, and in order to ameliorate that system, I some time ago drew up a little bill, which I thought would entirely obviate the difficulties under which Patentees now labour. It has but one clause, which is this: "Where by misadventure or otherwise, the Patentee, assignee, or other person, having a beneficial interest in any Letters Patent for inventions, shall have failed by himself or by his agent to produce at the Office of the Commissioners of Patents, before the expiration of the third and seventh years respectively of the grant, the said Letters Patent, duly stamped, it shall be lawful on application being made in writing, by the Patentee or other person or persons beneficially interested in such Letters Patent, or his or their agent, at the Office of the Commissioners of Patents within [] months from the date of this Act, or from the date of the expiration of the term for presenting such Letters Patent duly stamped, for the Lord Chancellor to issue an order empowering the Clerk of the Commissioners to endorse on such Letters Patent, or on a duplicate thereof, the same being first duly stamped, a certificate of the payment of the stamp duty, provided such Letters Patent be presented for that purpose at the Office of the Commissioners within six clear days from

"the date of such order, and such Letters Patent so endorsed shall be held to be in force and binding, as if no delay had occurred in presenting the Letters Patent, or the duplicate thereof, duly stamped, at the Office of the Commissioners, agreeably to the provisions of the above-mentioned Act." That is to obviate surprises. For example, a Patentee may forget that his payment is due; he may find that he has lost his Patent, and he has no time to get a new one; he may be refused a copy, though I should say, from reading the Act, he has a right to a copy if he offers the proper sum put down in the Act, but I have known many cases where, even when the money has been offered, it has been necessarily refused because the Act will not allow of the least latitude in the payment of those taxes.

1829. What would be the effect of the change you suggest?—It would be this: If a person who, having by misadventure failed to stamp his Patent or to record the fact of stamping (for either omission is equally fatal to the Patent) at the proper time, applies to the Lord Chancellor and shows sufficient grounds for an order to be issued, that then the Lord Chancellor shall have the power of issuing an order to indorse the Patent as duly stamped, whereas, at present, if the Patent is not stamped and the fact recorded within a certain period, there is no means short of an Act of Parliament to remedy the omission. There has been a remedy in one case, but it cost some 500*l.* in obtaining an Act of Parliament for that purpose.

1830. You would merely give an optional indulgence in a case where the payment had not been made in time?—Precisely so; it would be a most important change, and of great advantage to Patentees, and to the Patent Office fund.

1831. How do you think that that indulgence ought to be given; would you make it purely discretionary with the Lord Chancellor?—Yes.

1832. Would not that throw a very large and arbitrary discretion upon him?—I should not object to its being something more positive and defined; but there should be some such protection where there has been no wilful neglect.

1833. It is probable that every person who had not made the application in due time would have some excuse for not having done so; would you throw upon the Lord Chancellor, or any other authority, the task of inquiring into all those excuses and forming a judgment as to their validity?—Precisely the same thing is now done by the Lord Chancellor when an application is made for a new Patent under the present law; if a man loses his Patent he has to apply for a duplicate, and he must give reasons.

1834. As to the question of preliminary investigation do you think there ought to be a preliminary inquiry of a more searching character than that which at present takes place?—I do not think it is a necessity, but if we were to set up a system that would be as perfect as we could make it, I think that then preliminary inquiry would be an important branch of the new system; I think the system as it is works tolerably well, and to institute a preliminary investigation would be rather a costly matter.

1835. To the Patentee or to the public?—To the Patent Office.

1836. Do you think that any preliminary inquiry could be so conducted as to be satisfactory in the majority of cases, that any tribunal would be competent to judge as to the novelty and as to the value of a Patent in every case?—Not as to the value, and not completely as to the novelty. If a preliminary investigation is to be made I think it should be made on the principle they have adopted in the United States, but only to a certain extent on that principle. I think that the Patentee has a right to know what is in the office in the shape of inventions, that if he applies for a patent to-day, and an application was made for a similar thing the day before, he ought to be informed by the proper functionary in the office that he has been anticipated. I certainly think that an examination ought to be made so that a Patentee should know

what the six months' unspecified Patents preceding him contain, or rather that they do not contain what he is applying for a patent for.

1837. Would that in all cases be a simple matter to decide?—Yes, I think so; it would require a careful examination, but it would not be a very great labour.

1838. Is it the fact that at present a man can only ascertain by inquiry at the Patent Office that there is no Patent of an earlier date than within the last six months similar to his own; that is to what has passed in those six months he is left entirely in ignorance?—That is so.

1839. You think that such disclosure could be made without interfering with the rights of those who are taking out Patents, or who have taken them out within the last six months?—Yes, I think so.

1840. In the event of a tribunal being instituted for the purpose of making a preliminary inquiry, would you have the judgment of it final and without appeal, or not?—I should appoint examiners whose duty it would be to make a private record of inventions as Patents were applied for them; those examiners should notify to a Patentee when he was anticipated; and their jurisdiction should end there.

1841. In that case there would be no necessity for an appeal, because the matter would be then in your opinion simple and obvious?—Precisely.

1842. Have you in the course of your experience come to any conclusion as to whether the multiplicity of Patents which has existed in the last few years has caused any public inconvenience?—I do not believe it has at all. I think that is a mere dream.

1843. You have not heard of complaints of manufacturers having been interfered with in their business?—Never.

1844. You have not heard complaints of parties engaged in a particular business buying up on speculation every Patent connected with that business so that it was hardly possible for any one to enter the same business without infringing some one of those Patents?—Yes, I have heard of two such cases.

1845. You do not apprehend that that is a common subject of complaint or that the public suffer much from it?—Certainly not.

1846. Having come to that conclusion I infer that you do not think any provision is necessary for the purpose of limiting the number of Patents and protecting the public against Patents of trifling value?—I think any legislation to limit the number of Patents would be a serious evil, that is to say, Patents of value.

1847. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?—There is one class of Patents which I always thought should be absolutely refused, namely, Patents for obvious applications. I may take for instance the same example that I have used before, and as it is no longer a Patent there is no harm in it, namely, the use of alpaca for covering umbrellas. I think that it should be open to any one to make an obvious application of any manufactured article that is to be purchased in the open market irrespective of any Patent, simply because there is no invention in it.

1848. You say "an obvious application of a manufactured article," would not the whole controversy turn upon whether the application was obvious in its character, or not?—Yes, but there could be no difficulty in coming to a conclusion upon it.

1849. You would not allow any person to take out a Patent for the use of a certain material, for a purpose to which that material had not been hitherto applied?—No, not if that material was obviously applicable to the purpose. There is another illustration of my meaning in an invention which has proved itself to be really a patentable one; it has gone into courts of law and been upheld; but for such inventions I would refuse a Patent. It was for the printing of a fabric in imitation of another fabric. It was a woven fabric with a "flushed" back, and printed with a zebra pattern, to represent a manufacture well known

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in the East, and produced by weaving printed warps. A Patent was taken for printing that fabric (which was a fabric well known in the plain state) with a particular pattern, and that was not upset in a court of law. It was merely common printing, applied to a fabric that had hitherto not been so printed.

1850. Would you define more accurately than it is at present defined what should be the subject of a Patent?—No, I would not, because I think if you draw the terms closer there might be a great evil in it. The terms are now open, and I think they should remain so, but it should be in the province of the Examiner or Law Officer to whom those applications are made to refuse what he considered to be what I term an obvious application.

1851. (*Mr. Grove.*) In using the term "obvious application," do you limit it to cases where there is obviously no change of form or figure at all; as for instance, in the case of alpaca applied to umbrellas, as silk had been formerly; or would you extend it to cases where there was a slight change of form?—Suppose you wished to ornament a book cover which is now a plain cover, and you subjected it to the well-known process of printing in one or more colours, that I should say would be an obvious application.

1852. There are several Patents relating to photographic albums, for different modes of slipping in the photographs and securing them and so on, would you have Patents for such things as that?—That I could not say unless I saw the particular example. Where there was an improvement produced by a new construction, I would grant a Patent however small the improvement.

1853. (*Chairman.*) You would not in any case refuse a Patent merely because it dealt with a very trifling subject matter?—I think it would be a dangerous precedent to adopt.

1854. Taking such a case as that which we are informed has occurred, a Patent being taken out for a new form of bonnet, or for a shirt frill, or a trifling matter of that description, do you think that that is a proper subject for a monopoly?—If it is a new form and merely an ornamental form it is not the subject of a Patent now; if it is a new form and there is a special utility in that new shape or form then I think it is a subject for a Patent.

1855. (*Lord Overstone.*) Are you prepared to suggest any form of words that would include all those things which you think ought to have Patent rights, and all those things which you think ought not to have Patent rights?—No; that is perfectly impossible for anyone to do I think; but the Patent law may be fairly interpreted to extend to *all means, whether mechanical or chemical, which embrace a new principle of action or of construction*; while it excludes all new applications which do not involve a change in principle of action or of construction to obtain the desired result.

1856. (*Chairman.*) Do you think greater facilities should be provided than exist at present for the repeal of invalid Patents?—I do not see any use whatever in repealing invalid Patents.

1857. Will you explain that answer; how can they be known to be invalid till they have been tested in a court of law?—If they have been tested and proved to be invalid in a court of law they are perfectly harmless. My experience of attempts to repeal Patents leads me to the inference that Patents are not subjected to the ordeal of *scire facias* proceedings unless of great commercial value.

1858. Do you think that no more convenient method could be found than exists at present for testing the validity of a Patent?—I think the present system of testing the validity of a Patent is as bad a system as we could possibly have. That I should like to speak upon more fully.

1859. Do you think that any change ought to be made in the tribunal appointed to try actions and suits instituted by Patentees?—Yes, I think so.

1860. Will you explain to us why you think so, and what is the nature of the change you would

recommend?—I think that no new form of tribunal would meet the objections which appear to exist in the present system without something more, and that is that the cases before being brought to trial should be prepared by a proper officer; that the grounds of complaint should be considered, and that the grounds of defence should be considered by a proper officer; that then the case should be drawn up and put into shape, and in that shape tried.

1861. Do I rightly understand you that you would leave the whole framing of the case to be submitted to the Court—to some officer of the Court?—Yes.

1862. Would not the decision very much turn upon the manner in which the case was stated?—Wholly upon it.

1863. (*Mr. Waddington.*) You mean that the parties should come before him, and that he should fix the points after hearing the parties?—Yes, I have made a little note upon it which will give my views more clearly. The officer of the Court should examine all complaints of infringement, point out objections, if any, to the validity of the case, or call for further particulars; particulars of breaches framed under his approval, in full knowledge of plaintiff's case, to be transmitted to the alleged infringer, and his answer thereto to be submitted to the officer of the Court. This answer to be amplified at the discretion of the officer; and further particulars from the plaintiff to be called for, if needed. The answer, when complete, to be defendant's case. With such particulars the officer of the Court to prepare case for trial. Points of law raised on case (if any), to be first selected, put into shape by the officer of the Court, with concurrence of litigants, and submitted for decision of the Court. If judgment is against the validity of the Patent, the case to be dismissed, if not, issues, embracing the merits of the case, to be prepared by the officer of the Court, and none other tried. Appeal may be made, before the trial, against officer of the Court's decision in respect of the issues. This is the view I have had for some years, but I have found recently that it perfectly agrees with a system carried out in Scotland. When I say carried out, it is embodied in an Act of Parliament, but whether it is carried out in practice or not is another matter. This Act, which relates only to Scotland (13 & 14 Vict. c. 36.), I am not at all inclined to think is really carried out in spirit, so far as Patent actions are concerned, because I feel certain there is not the machinery to do it there. It is by section 38 declared to be the duty of the Lord Ordinary to prepare the issues for trial. In a work on this matter, Macfarlane and Cleghorn, I find this statement: "It may and does frequently happen when a case is analysed, that contrary to the anticipations and views of both parties, there is truly no relevant matter for trial at all. When this occurs no issue can of course be granted, the parties being either at once sent out of court, or obliged to amend their pleadings. Or it may happen that, the parties being agreed on all the material facts, the hinging point is one purely and entirely of law."

1864. (*Mr. Grove.*) Have you had any opportunity of judging of the working of that system?—No, I have not. I have looked into that book of Macfarlane and Cleghorn, and I am very much inclined to think that though the Act sets out the system which I have attempted to describe, it cannot be carried out, because there are not the means. The Lord Ordinary would not in Patent suits be qualified to do the work which it is proposed should be done.

1865. They may have found difficulties possibly in endeavouring to carry it out?—It is carried out in all other matters certainly on which the Act bears, but I do not think it can be carried out in Patent matters. The following is the clause which explains the procedure for the adjustment of issues: "Where in the course of any cause before the Court of Session matter of fact is to be determined, and an issue is to be adjusted with reference thereto, it shall be the duty of the pursuer to prepare and lodge in process the

"issue he proposes; and it shall be the duty of the defender to prepare and lodge in process any counter issue required by the nature of his defence, and the Lord Ordinary before whom such cause depends, after causing issues to be prepared and lodged as aforesaid, shall forthwith appoint parties to attend him at chambers, or shall order the case to the Roll, for the adjustment of an issue or issues for the trial of such cause, or of such matter of fact arising therein as is to be determined by jury trial; and if such issue or issues be not adjusted and settled with the consent of parties at the meeting or enrolment so fixed, or at a second such meeting or enrolment for the same purpose, if such second meeting or enrolment shall be appointed by the Lord Ordinary, the Lord Ordinary shall immediately report the matter to the inner house, by whom such issue or issues shall, upon such report, be adjusted and settled."

1866. (*Mr. Waddington.*) That is what is undertaken by Judges in chambers in England, as far as the preparation of the issues to be tried goes?—Yes, but it is a much more perfect thing.

1867. (*Mr. Grove.*) I daresay you have seen the length to which some Patent cases go in Scotland, are you able to form any opinion whether any time is saved by the issues being more elaborately adjusted, as contemplated by that Act?—I do not think so, for the reason which I have already given, namely, that I do not think the Lord Ordinary is competent to perform this duty; but the Act shows that there is a necessity, and it is only for that reason that I bring the Act before your notice. Nothing can be more unsatisfactory than the present system. I need only refer to a recent trial in which I was advising the defendants, and not until the second day of the trial did I know what the case was which I had to meet. It is a very unfair thing to defendants, and it is as often unfair to plaintiffs. Under the present system the merits of a case are first tried before a jury, and when the jury has decided, or at the time that the trial is going on, legal objections are taken to the Patent in question; the whole expense of the trial is incurred; the time of the Court is occupied for days; the jury is called upon to give a verdict, and when the verdict is given then and then only the real merits come forward, and the question, is the Patent valid or not, arises. The matter has then to be discussed and re-discussed before the Judges, and in many instances so far from the jury's duties having been of any avail, they are proved to have been waste time; because the Patent is shown to be invalid, and therefore all the time occupied by the trial, and the expenses incurred in bringing witnesses to speak upon the point, are of no avail. But supposing this system of a preliminary preparation of the case to be introduced, then I think we should get some great advantages. Another proposition I have made elsewhere, but which has been objected to, is, that if Patents are granted without investigation, which is the general wish, then the right to found actions on Patents should be controlled by a proper authority, as in the case of an application for a writ of *scire facias*, where it is in the power of the Attorney General to refuse the application. The advantages of the system which I proposed are these; first, groundless complaints will at once be dismissed; secondly, weak cases of complaint will be compromised, their weakness being demonstrated by the officer of the Court; thirdly, untenable cases will be withdrawn, the litigants being in full knowledge of the nature of the defence, and of the officer of the Court's opinion thereon; fourthly, the decision on the law points taking precedence, the chief expenses of the trial will be deferred until needed; fifthly, if the law points go against the plaintiff the case will be closed, and if against the defendant, the same result will be probable; sixthly, the labour of getting up and testing evidence in and out of Court will frequently be saved. These are the advantages which I think would accrue from this preliminary

examination of cases and the preparation of the issues to be tried. *A. V. Newton, Esq.*

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1868. (*Chairman.*) When the case had been prepared in the manner you suggest, would you have it tried as at present in one of the ordinary Courts of Law, and before a common jury, or would you provide a Court specially for the purpose?—I should propose a special Court.

1869. (*Mr. Hindmarch.*) With or without a jury?—Without a jury.

1870. (*Chairman.*) With assessors, or should the Judge sit alone, and decide upon his responsibility?—The Judge, I think, should decide on his own responsibility, but he should have advisers.

1871. Would you propose that they should be permanent advisers, or advisers summoned to give assistance to the Court on each particular case?—I think there might be a difficulty in the system of having advisers specially summoned; otherwise, perhaps, they would be the most desirable to have; but on the whole I should rather be in favour of having permanent scientific advisers.

1872. Who should be precluded from carrying on any business?—Yes.

1873. (*Lord Overstone.*) Would you propose that those advisers should be parties whom the Judge might consult or not, as he might think proper, or that their opinion should be always taken, and should be publicly declared before the Judge decided?—I think the chief use of those advisers would be to watch the case, and to bring out the facts. I think that unless there are some independent persons qualified to try the case, the whole facts do not come out, and are not understood.

1874. You think, then, that the advisers should be called upon to act, not leaving with the Judge the option of calling upon them?—Yes, I do.

1875. Would you have them give an opinion upon the whole case before the Judge decides?—If they did it should not be in public.

1876. You would not think it right that the advisers should publicly state their view, and that the Judge should afterwards decide?—No, I think not; I think the Judge should bear the burden of the decision.

1877. (*Mr. Fairbairn.*) Would you have those advisers employed exclusively in that duty?—Yes, I think so.

1878. (*Lord Overstone.*) In your opinion the Judge should have attached to him advisers permanently appointed, and who should consider it their duty to watch the progress of the case step by step, to make such suggestions as they might think expedient, and in the end that they should give an opinion upon the subject to the Judge upon his requisition?—I think that would be the best way in which scientific knowledge could be applied.

1879. That is in your judgment the way in which a tribunal for the trial of litigated Patents ought to be constituted?—Precisely.

1880. (*Mr. Fairbairn.*) Do not you think that if the Judge were to call in occasionally scientific advisers, merely to advise him on technical matters, that would answer the purpose, without appointing them permanently?—Though I think that permanent advisers would be better, I should not at all object to having this scientific assistance obtained in any way, but I should not like any Patent case to be left entirely to a legal mind to decide upon. I think that none but a legal mind is qualified to decide between complex cases, but I think that a man who is merely a legal man is not able to follow all the points which do or ought to come out in a Patent case, and I think that scientific men should assist in the trial of Patent cases in order, by their questions, to draw those points out if they were hanging back as it were, and put them before the Judge clearly.

1881. (*Lord Overstone.*) Your view I understand to be this, that the Judge is a properly qualified person to weigh and decide upon conflicting evidence, but that, in matters of scientific complexity, some

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further assistance is necessary to enable the Judge to draw out all the facts in the case?—Precisely.

1882. (*Mr. Waddington*.) You propose that the parties should argue the case before the tribunal you suggest, by themselves or by counsel, as they do now before a jury?—In that respect I think there should be no change.

1883. You would allow the advisers to take part in the examination of the witnesses?—Yes; I think that very important, in the same way, and only in the same way, that the judge at present does.

1884. (*Mr. Fairbairn*.) How many advisers do you think would be necessary?—I should say never more than three.

1885. One conversant with mechanics, another with chemistry?—Yes; and another with philosophical matters generally.

1886. (*Mr. Waddington*.) Do you mean that three should attend in every case?—Yes, it would be desirable; it would not be absolutely necessary, because the mechanical adviser, when a chemical case was on, would perhaps know little about it.

1887. (*Mr. Fairbairn*.) If you had such a body as you suggest, do not you think that the jury could be dispensed with altogether?—I would have no jury. I think juries of no use whatever; the Judge should be the jury.

1888. (*Lord Overstone*.) If the jury were got rid of, would not it be desirable to enable the Court, consisting of the Judge and the advisers, to adjourn, if necessary, for a further inquiry into any points upon which they might consider the evidence insufficient?—It would be opening a very wide field, for, if the case was not fit for trial, it should not be brought on.

1889. Have you never heard of cases which have been considered fit for trial, but which turned out not to be so when they were gone into and investigated; when it has turned out that there were some points upon which additional evidence might be required?—I think, if the case were prepared in the way I have suggested, any deficiency must necessarily be brought to notice before the case goes into Court.

1890. Passing on to the subject of licences where a Patentee has obtained a Patent, do you think he ought to be under compulsion to grant a licence for the use of it?—I think he should.

1891. Under what regulations would you place the granting of licences?—If it is made compulsory to grant them, and no agreement is come to between the person desiring the licence, and the Patentee, I think then that the Court (supposing the Court to have been established) might very well act in that matter.

1892. Do you think that the Court could be safely entrusted with the decision of what is the price which the Patentee ought to charge for the licence he grants?—I think so. One-third of the saving effected by an improvement has been deemed an equivalent price for its use. This is not applicable to new manufactures; in that case the terms of the licence are of little consequence to the Patentee, provided they are not too high and not exclusive. The lower the terms in general, the larger the gross amount realized. The Patent Law Court might be appealed to, the basis of settlement being that the licensee may be able to compete with the Patentee by selling at his fixed price of sale. If, for example, the Patentee sells the article at 20s., and charges 5s. as a licence fee, and the licensee can pay that fee, and get a reasonable profit on the manufacture, that would be a proof that the licence fee was not in excess; but if he could not manufacture at a fair profit and pay that licence fee, then the fee would be in excess.

1893. When you have once given a monopoly to a party, in the form of a Patent, why do you think that the ordinary principle of supply and demand which prevails in other things should be insufficient in that case to secure to the public the use of the article?—It is not for that reason that I should require compulsory licences. When a man has invented a good thing he opens the road to other inventors. A more far-seeing man, having his eyes directed in that way, sees

how he may improve on the original invention; but he says, "If I improve upon it I cannot manufacture my improvement, because that Patent stands in my way." And there, and there only, is the semblance of obstruction in Patents. Now he says to himself "If I can get the right to manufacture my invention, I can afford to pay a licence fee to the original Patentee; but if he is obstinate and will not grant me a licence, I shall lose where I might hope to gain, and the public cannot have the benefit of my improvement until this Patent has expired."

1894. A compulsory licence means a licence which the party possessing the monopoly must grant upon some terms dependent upon other considerations than those of free agreement between the purchaser and the seller. What substitute for that free agreement would you propose to establish for the purpose of determining the price of a compulsory licence?—If a man refuses to grant a licence, it does not follow that he secures to himself an advantage; he puts the man who requires the licence upon his mettle to get round that Patent, to evade it, and it is not unfrequent that a Patentee refusing to license will force a better thing into the market, and so really injure himself. Consequently, if the law compelled him to grant a licence, the law would not injure him in that case.

1895. But if a Patentee refusing to grant a licence is very liable to injure himself by that refusal, is not that a strong argument in favour of the plan of leaving such considerations to exercise their ordinary influence over him, and to induce him to sell his Patent upon some reasonable terms?—Not exactly, because a man who improves on the original invention can work with confidence when he knows that it is only a money payment which he will be called upon to make; but if he has the uncertainty of whether when he has perfected his improvement he shall be able to use it so long as the original Patent exists, then the question is whether he will pursue his improvement, and complete it.

1896. If you compelled a Patentee to grant a licence, would not it be necessary that that act should be accompanied with some decision as to the terms on which he is to grant it?—Yes, it would be.

1897. By what process or upon what principle do you propose that those terms should be settled?—I have given two schemes, both perfectly practicable, one is that the licence shall not exceed one-third of the benefit which the invention is supposed to confer, and the other is that the licensee after paying the licence dues shall be enabled to put upon the market the patented article at the same rate as the Patentee is now selling it.

1898. (*Mr. Fairbairn*.) Do you think that that system of compelling the Patentee to grant a licence on such terms would work well?—I think it would come to this, that if the law said a man shall not have the exclusive right of his invention (and the law does in fact say that, because the Government has a right to use everything that is patented, on a reasonable remuneration being paid, and that has never raised much difficulty yet), if a man knows that the power exists somewhere of insuring to any applicant a licence, then he will raise no difficulty whatever, and the terms will be adjusted.

1899. In some cases where a Patentee works a Patent himself it may be against his interest to grant licences at all; in other cases it might be the reverse, and it might be to his advantage to grant licences?—I think it is always to his benefit to grant them. Why I am rather strong upon this point is because I have seen so much folly in the refusal of licences. I introduced the sewing machine into this country. I sold it for a small sum, and I offered some years afterwards to the owner of the Patent as much licence money as 10l. per machine, and that was refused. I am now granting licences for a sewing machine (an improvement by the original inventor of that machine) where shillings are considered an equivalent for pounds in the first case; and I know that in the United States, where sewing machinery has thriven

more than here, very small royalties have produced enormous sums of money to the owners of Patents. Another case in which I was concerned some years ago well marks the folly of a Patentee in refusing a licence. A poor man invented and patented the making of "cock-spurs" (supports for dishes and plates while submitted to furnace heat) by means of dies, and established a small business upon the manufacture. Some years later a gentleman improved upon the invention so far as to make the cock-spurs 500 at a time instead of singly. The earlier Patent being brought to his notice he desired to make terms with the original inventor, and offered him a liberal sum, together with the sole right to sell the new manufacture in his own locality (the potteries). He could not, however, be brought to accept these, or indeed any terms; but contrary to advice commenced an action for the infringement, and was cast by reason of an unimportant claim in his specification proving untenable.

1900. (*Lord Overstone*.) Passing on to the next point, do you think it expedient that Patents should be granted to the importers of foreign inventions?—I think that it is a most important thing that they should be.

1901. Upon what principle do you think it important that that privilege should be granted?—If Patents were not granted for foreign inventions, we should shut out, I think I may say, three-fourths of the inventions which are brought here.

1902. Do you think that foreign inventions in active use abroad would not find their way into this country unless Patent privileges were granted as an encouragement for their introduction?—I know they would not, because I know of cases where inventions have been publicly used abroad, and are not even to this day used here. I gave an example in my evidence before the Committee in 1851, and I will give that same example again, after twelve additional years of foreign experience of the utility of the invention referred to; I allude to the American Excavator. It was patented here certainly, but the proprietorship of the Patent got into the hands of so many persons that it was not worth while for any one of those men, more especially as they were pulling against each other, to go to the expense of introducing it here. The machine was brought over, and it was even set to work on the Eastern Counties Railway and at other places, but the obstructions which it met with from the workmen were such that unless it had been in the hands of one man, and that a very energetic man, it could not succeed, and to this day it is not known in this country as a working machine. The American Derrick is another example of a very useful invention, being practically unknown in this country.

1903. You think there are many inventions a knowledge of which is perfectly possessed by persons in this country, but which unless a Patent right were granted to some person over them would not be brought into practical working?—Yes.

1904. That is a fact within your own knowledge?—Yes; I can give another example. There was an invention which I patented some 14 years ago for cleaning wheat. I believed it to be a process which was very valuable. It was said to be capable of increasing the yield of flour by 15 per cent.; that invention was applied in the United States, but through a series of misfortunes the inventor was never able to realise anything upon it, and I think that the war in the United States entirely destroyed his hopes. But with the hope of getting an extension of the Patent in this country, some of his friends came over here prepared to establish the process. While here they made terms with one of our largest millers, the terms being, that the miller was to be at the expense of applying for an extension of the Patent; that he was to have certain privileges under that extension; and then that the inventor was to do what he could with other millers. The terms were carried out, though unfortunately for the inventor the extension was not allowed; but the mere hope of securing this ex-

tension had the ultimate effect of introducing the invention into work in the largest mill in London. A Patent of improvement which was obtained prior to this application before the Privy Council for an extension still gives the inventor some slight hold on his invention, and, therefore, he is encouraged to pursue it; but if it were not for that Patent the invention would only be used in the mill in which it now is working, for the inducement would not exist for the inventor to push it under the notice of any other miller. That, to my mind, is a case, and a very strong case, of the utility of granting Patents for foreign inventions, because that invention was well known from the enrolled specification for 14 years and yet no attempt whatever was made by the trade, although tempted by liberal offers, to carry it out here. It is said, and I believe there is no doubt about it at all, that the saving effected by this process of unbranning wheat, whereby the bran is removed without the slightest particle of flour, is 15 per cent. The hope of an extension of the Patent was enough to bring parties from the United States to establish that invention here.

1905. (*Lord Overstone*.) With reference to the law respecting prolongation and confirmation, do you think that the present state of the law upon the subject of prolongation is satisfactory, or, if not, in what respect do you think it unsatisfactory?—I think the state of the law is satisfactory, but I should like to see a different Court applying the law.

1906. You think that the Privy Council, as it at present works, is not a good tribunal to decide questions of prolongation?—No; it is a matter of trade policy; it is a question almost of political economy, and certainly not a matter for a Court consisting purely of lawyers.

1907. Is not the question of prolongation a simple question of fact, to what extent the Patentee has been remunerated for his invention, or to what extent the sale of his article up to that time has not been sufficient to remunerate him?—If it were merely that, there would be no objection to the Court as it now stands, but, from what I can judge of their proceedings, the questions seem to be decided upon hard crude law rather than upon policy. I think that the question as to the extension of Patents is a question of policy entirely.

1908. Is the question which they have to decide anything more than the question of whether the Patentee has, up to the period at which the Patent expires, received the remuneration which it may be fairly presumed, in granting the Patent, it was deemed right that he should receive?—I think that there are certain elements which ought to be taken into consideration that are now not considered at all. I think, for example, that if it could be shown that a man might have profited by his Patent if he had gone a reasonable way to work, if he had not refused offers made him, and that by his own misjudgment he had marred his prospects, that would be a legitimate ground for refusing an extension; but I think that if a man has not worked his Patent at all, and he can show some reasonable ground for not having done so—if, for example, it was before its time, and he would only have wasted his time in pushing the thing, and spending money upon it, then he should have a right to an extension, provided he could show that now is the time when the Patent can be made profitable.

1909. Do I correctly understand your opinion to be that the objection to granting of prolongations by the Privy Council is an objection to the principles upon which they decide those questions?—It is difficult to say upon what principle they do decide, because they certainly consider whether a man has had a sufficient remuneration; but I think they have no means of judging what is a sufficient remuneration. Now, in the United States, when Patents were extended (recently that plan has been abolished), proof was required of the amount of benefit which the public had derived from the Patent. If it could be shown that the advantage was enormous, and that the Patentee's profits, though large, were not equal to that, or were

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considerably below it, then one might confidently predict an extension of that Patent. That plan has been recently altered; but here, if a profit is shown of some few thousands of pounds on the workings of 14 years, there is scarcely any prospect whatever of an extension.

1910. By what change of tribunal, not involving a change in the actual state of the law, do you contemplate correcting and removing the objections which you now urge against the decisions of the Privy Council?—By submitting those applications to the consideration of the new tribunal which I suggest, of Judge and advisers.

1911. Upon what ground would you expect that the new tribunal would take a different view, or a more correct view on the question, than the existing tribunal?—Because they would be intimately acquainted with matters of that kind.

1912. You would refer questions of prolongation to the same tribunal as that to which you would refer the decision of litigated Patents?—Yes.

1913. Why do you think that that would be a better tribunal than the Privy Council?—One great advantage would be, that there would always be the same individuals composing that tribunal. The Judge, at any rate, would be the same; but in the Privy Council you might get a Court which was tolerably intimate with these matters at one time, and at another time you would get Privy Councillors who knew very little or nothing about them.

1914. (*Mr. Fairbairn.*) You think that the new tribunal that would be constituted, being better acquainted with the Patent Laws, and the working of the Patent Laws, would be more competent to judge in cases of prolongation than the Privy Council?—Precisely so.

1915. (*Lord Overstone.*) Do you see any objection to abolishing altogether the system of prolongation?—I do not think it should be abolished.

1916. You think that the system of granting prolongation should be maintained, but that the adjudication of the subject should be referred to a different tribunal; and you would suggest that it should be referred to the tribunal which had to consider the question of litigated Patents?—Yes; I think that would be a great improvement. I think with respect to confirmations, if the law is not sufficiently strong upon that point, and I think it is, confirmations also ought to be submitted to this new tribunal; for such is the practice in the Privy Council, that we have had, I think, but one confirmation of a Patent since the passing of the Act, although the privilege conferred by the Act is a very equitable one.

1917. (*Mr. Fairbairn.*) You would have this new tribunal take cognizance of every matter connected with Patents?—Yes; everything connected with Patents.

1918. Both prolongations and confirmations and everything else?—Yes; I think that that would be very desirable.

1919. (*Mr. Waddington.*) Have you considered the law with respect to disclaimers?—I have considered that matter a great deal, and I think that a system which now prevails in the United States would be a most desirable system to import here. By our system if we have a defective specification, we strive to amend it by striking out portions which are descriptions and claims of parts which are not new, and which if they remained would vitiate that which is really new. If the description is incorrect in certain small matters it can be corrected; but in the United States something more is allowed than that. If I draw a machine, and I describe that machine, and I claim portions of it, and if I choose afterwards at any time to re-consider my description, I can put in a new specification, claiming things that are there described, and by that means I am enabled to substitute a good specification for a bad one.

1920. By making additions to your first specification?—It is not an addition; it is a new document.

1921. A new document varying from the original

one not only by the omission of part, but also by the addition of part?—No, that is not it; if the machine is shown in the drawings and described, then I can, according to the United States system, make a claim upon anything I please that is there shown and described, though in the original specification that claim were wanting.

1922. You do make an addition to your claim?—Yes; but no change whatever in the invention.

1923. You claim something as a novelty which you did not claim in your first specification?—Yes. I had a case submitted to me some time ago where the description given wrongly set out the principle of action, and the claim unfortunately embraced this wrong principle; but there was the invention clearly set out, and under our present law of disclaimer there is no means of making that a valid Patent. Now under the American system that specification could have been withdrawn and a new specification filed, that being subject to the approval of the examiners. Such a privilege as that should not be accorded at all unless there were proper persons to examine and pass the specification.

1924. (*Lord Overstone.*) Will you state exactly what alteration you would propose to make in the present state of the law as regards disclaimers and memoranda of alterations?—I think that not only should a disclaimer or alteration be allowed, but that a Specification might be withdrawn and a new one substituted.

1925. To what extent would you permit the new Specification to differ from the old one?—The new one should lie as it were within the four corners of the original Specification. Supposing, for example, I invent a new construction of heckling machine, and claim a mode of driving the heckle sheets, and in the first instance content myself with that; but supposing I have in my Specification described and shown a new construction of heckle, then I think if there has been no claim set up by me for that, a new Specification, containing a claim for that portion, should be admissible as a substitute for the original Specification.

1926. (*Mr. Hindmarch.*) Whether any other person had used that heckle in the meantime, or not?—Yes.

1927. (*Mr. Grove.*) You would take away what the public upon your original Specification had been lawfully and rightfully using. So that it might happen that a Patent might go on for 13 years and the public be in full possession and use of the invention legally, and yet by an alteration in the Specification, if I understand you, you would stop them?—You might fix a limit, it would be desirable to impose a limit, beyond which if a man infringed that portion he should not be liable for damages for the act.

1928. The public may have adapted plant and made arrangements for the thing, and they would have a right to presume that no alteration will be made?—I have given that example because it is an extremely simple one, but it would hardly be such an example as would occur; I merely gave it as it arose. But what I have in my mind is what I set out with, namely, a claim having been made on a wrongly ascertained principle of action of a machine, or a process. If, for example, I say that I claim the oxydising of such a material and describe the process correctly, saying, I put such and such a material into a certain solution and thereby effect its oxydation, and if I claim the oxydation of that material and it turns out that that material is not oxydised at all, I think that is a ground for putting in a new Specification: that is perhaps, a far better example than the heckling machine.

1929. (*Mr. Hindmarch.*) Supposing that the inventor specifies something which is no invention at all, you would allow him to amend his specification by claiming something which is an invention?—No.

1930. Is not that the result of what you have said?—No. A patent is granted for an invention. That invention is described and claimed. It is wrongly claimed. I merely ask for the right to put in a proper specification for that invention which is there set out.

1931. Is not there a fallacy in the use of the expression "it is wrongly claimed;" is not rather the proper expression "the wrong thing is claimed?"—No, not necessarily; it may be so.

1932. (*Lord Overstone*.) If I understood you correctly, your view is this; a specification is made of some result accomplished. That is the merit of the supposed discovery. The specification describes the result, and attributes it to a certain cause or to certain processes, but it is subsequently found out that though the result is correctly described, the cause or processes by which it has been obtained have been incorrectly described, and you propose to give the power of introducing a correct description of the means by which that result has been obtained; is that your view?—Yes.

1933. You think that that is really following out the original Patent in spirit, and that it is not the establishment of a new case?—Yes; it is a thing which works very well in the United States. I have never heard any objection urged against it. They call it the re-issue of the Patent. The words of the Act referring to this point are these: "Whenever any Patent which has heretofore been granted, or

"which shall hereafter be granted, shall be inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the Patentee claiming in his specification, as his own invention, more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Commissioner, upon the surrender to him of such Patent * * * to cause a new Patent to be issued to the said inventor for the same invention, for the residue of the period then unexpired for which the original Patent was granted, in accordance with the Patentee's corrected description and specification." I may remark, in corroboration of the utility of this provision of the United States law, that in a bill now before the Canadian legislature for improving the law relating to the granting of Letters Patents it is embodied, and in almost the same words as those just recited.

1934. (*Lord Overstone*.) Is there anything else which you wish to submit to the consideration of the Commission?—I do not call to mind any other points just now.

The witness withdrew.

Adjourned to Thursday next at 4 o'clock.

Thursday, 21st May 1863.

PRESENT:

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
The Right Hon. SIR WILLIAM ERLE.
HORATIO WADDINGTON, Esq.

W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.
WILLIAM FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

ROBERT ANDREW MACFIE, Esq., examined.

1935. (*Chairman*.) You have had a good deal of practical experience of the working of the Patent Law?—I ought to have, for I have been engaged in business as a manufacturer, in connexion with my father and other members of our family, from the year 1829. For three years I was in Glasgow as agent for a bank, but even then I was connected with the sugar trade. Since 1829 I have been engaged in refining sugar.

1936. Have you taken out Patents yourself?—When our firm was in negotiation for the use of a Patent I applied personally for leave to take out a Patent, but as it was not necessary for the object in view to complete it, upon coming to terms I withdrew my application.

1937. Have you been interfered with in your business by the Patents of other persons?—We had trouble on one occasion with a Patentee, whose Patent we were, unconsciously, infringing. On being told so, we offered 1,000*l.* for a licence, which was refused. We then altered our apparatus at no small expense, causing us also some loss of time, and though the Patent has been for years expired, we have not, even in other apparatus that we have since fitted up to a considerable extent, adopted the patented principle.

1938. You have received a list of printed questions forwarded by the Commissioners, and you have sent answers to them?—Our firm has done so.

1939. It is your opinion, I see, that the expense of taking out Patents is at present rather too small than too great?—Yes, anything that tends to multiply Patents seems to me to multiply difficulties to manufacturers, but if any amelioration could be made in the law, by which those difficulties could be got rid of, I would have no objection to any number of rewards for the benefit of Patentees.

1940. It is your opinion that the cost of taking out a Patent at present, is not good in itself, but that it is a check upon a great abuse, namely, the multiplica-

tion of useless Patents?—That is the only advantage.

1941. You lay some stress upon the importance of a preliminary inquiry, have you considered how far it would be possible to make such an inquiry really effective? This difficulty arises, that the applicant would have every means of proving his case, while there would be probably no one to represent the interests of the public. Have you considered how that could be met?—The inquiries on which our answers lay stress are those that in our judgment should be made by the applicant. He ought to make thorough search to satisfy himself, and warrant the conclusion, that what he patents is novel. The difficulty which your Lordship suggests at the close of your question, I feel to be a serious one. That which is everybody's business is no nobody's; and unless there was an advocate of the public interests, I am afraid that the public would, in most cases, suffer. I have seen a suggestion made in a French pamphlet, which I read last year, that when a Patent was applied for, if the question of novelty was raised, it should be determined by referring the point to a number of experts, men of business connected with the particular manufacture.

1942. (*Mr. Hindmarch*.) Would it not be difficult to get impartial persons to perform such an office?—The pamphlet recommended that the parties should be asked, "Is this, so far as you know, new?" It was proposed that the parties so acting should be the persons most largely engaged in that particular branch of manufacture the invention to be patented affects. For instance, if it was a Patent in our business, for a particular mode of sugar-refining; anyone could without difficulty name two or three houses who would be competent to perform the duty; if they had never heard of this particular mode of refining, it might be assumed to be new.

1943. (*Chairman*.) Would you limit the prelimi-

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nary inquiry to the question of novelty, or extend it also to that of utility and importance?—I do not pretend to offer suggestions upon details. My thoughts have mostly gone upon principles. If a good system of Patents could be advised, I think it an advantage that any idea whatever might be registered, because out of a great deal of straw we might be able to get some grains of wheat.

1944. This is a question of principle, whether, assuming that there is to be a preliminary inquiry of any kind, that inquiry should be directed merely to ascertain the plain matter of fact whether such an invention as that for which the patent is asked has been placed on record before, or whether such inquiry should be extended to the much wider question of the actual merit of the invention proposed to be patented, and to the question whether it deserves to be patented?—It is very difficult to say what would be a trivial or frivolous or trumpery patent, therefore I would much prefer that, if possible, some system should be devised by which anybody could innocuously register his ideas. The only thing which I care for, speaking as representing a large class, is to get quit of the annoyance which patents are calculated to give us as manufacturers.

1945. (*Lord Overstone.*) Do you find by actual experience that that annoyance is serious?—I cannot say that we have found it so. That is a thing which surprises me very much, but if there should be a reform of the laws which would multiply patents, and which would invest Patentees with increased power, the state of matters might become very troublesome.

1946. That anticipation is not founded on past experience and derived from actual knowledge?—On the contrary, I would say that Patentees in nine cases out of ten in the sugar trade neglect their inventions; they do not often come and submit them to us and say, "Here are the results of what we have patented, will you work our invention." We hear very little about them, or from them. It is a small number of patents which we have had practically to do with. The misfortune, however, is that in those cases we have had to pay tremendous sums. There was one case in particular in which we had to pay 1s. a cwt. That on the present value of sugar would be a very heavy tax. We bought, for instance, the last week or two, cargoes of sugar at from 15s. 10½d. and 16s. per cwt. A shilling upon that, (and that has been frequently demanded) would be a preposterous tax.

1947. Do I understand you correctly that your experience in the sugar trade does not lead you to say that the multiplication of useless Patents in existence creates inconvenience and embarrassment in the prosecution of your trade?—I wish to give the answer as bluntly as I can. Though they might be expected to be an annoyance to us they are not, but any day they might become so. Judging from the reason of the case, one would say that they are mischievous. I know that they must be, and yet as a matter of fact Patentees have patented things of so little value, and they have so neglected to push their business, thereby saving us the trouble of satisfying them by proof that there is no use being made of their inventions, that we have not found the multiplicity of Patents a great inconvenience.

1948. (*Mr. Grove.*) Do you know whether in the case of other manufacturers who are engaged in manufactures in which numerous mechanical patents have been taken out, the number of Patents is found substantially to be a grievance?—Having been connected with one business only all my life I cannot say. In our business we have not felt it to be a great hindrance, but we have had very large sums to pay, and we have had very large sums asked us, for the use of Patents. We have tried inventions and have not found it necessary to adopt them, and therefore we have not in those cases paid the large sums asked. It is common for persons in our trade to be asked a rate of royalty that would amount in our individual case to 20,000*l.* a year, or it might be in the case of a certain notable house 50,000*l.* a year. It is im-

possible for the British manufacturer to compete with foreigners if he has any such sum to pay. It is most unjust.

1949. Your business may be one in which useful Patents are not very numerous, but you may probably be acquainted with persons in other manufactures, who have complained about their being interfered with by Patents and threats by Patentees?—We have ourselves had annoyances in one case from a Patentee, and I suppose that others must be annoyed too, but as a general rule I do not think that Patentees hitherto have acted grievously.

1950. (*Chairman.*) What you are looking to I apprehend is this, you think that in the event of a change of the law taking place which would greatly diminish the cost of taking out Patents, in that case patents would be multiplied, and then they would become a serious annoyance?—Yes, quite so. In fact, already they are numerous, and in answer to Mr. Grove's question with respect to our trade not being the subject of many Patents, I may say that I went to the library of the Patent Office to-day, and I found that in 1862 there were 22 Patents for sugar and 7 for animal charcoal, the two trades being necessarily combined. In the year 1861 there were 22 Patents for sugar and 5 or 6 for animal charcoal. In the year 1860 there were 26 for sugar and 5 for charcoal. In 1859 there were 36 for sugar and 4 for charcoal. In 1858 there were 17 for sugar and 6 for charcoal. In 1857 there were 17 for sugar and 5 for charcoal, and in 1856 there were 23 for sugar and 2 for charcoal. I went no further back. I likewise ascertained how many there were up to the time when Patents were cheapened. I found that from the initiation of the Patent system up to 1701 there were 3 Patents, for the next 50 years 1 Patent, for the next 50 years 12 patents, for the next 25 years 35 Patents, and for the remainder of the term of the old patent law, about 26 years, 138, making from the commencement of the system 189 altogether. Judging from the numbers for the last 5 or 6 years, which I have already given, I infer that altogether there must be 300 or I may pretty safely say something like 400 Patents in force just now affecting the sugar trade, being probably double the entire number of Sugar Patents which were granted up to the time of the cheapening of Patents.

1951. (*Mr. Fairbairn.*) Have you ascertained how many of those have become useful Patents?—About half a dozen I should say of the Patents granted in the last 10 years.

1952. (*Lord Overstone.*) Of all the Patents which you have enumerated, how many do you make use of in the prosecution of your business?—I doubt if we make use of a single one.

1953. There being 400 Patents affecting your trade now alive and none of which you make use of, are you seriously embarrassed in any way by the existence of those Patents?—I do not think that we use a single Patent taken out since the cheapening of Patents. I may make this qualification. An individual has patented in his own name one or two things which he learned by executing a piece of work to our order and has therefore patented what we consider our ideas, but it is not worth our while to go to him and say, "You have no right to patent this."

1954. There being 400 Patents now in existence affecting your trade, none of which are made use of by you, do you find that the existence of those Patent rights creates impediment and interruption and inconvenience, in the prosecution of your business?—Not in the smallest degree, but if Patentees were troublesome as they might become under a change of the law, and with a better organization, we should find our business so uncomfortable that it would be almost necessary to retire from it. Every one of those parties might come and allege that we were infringing some Patent and might bring us before a Court, as that person did to whom I have referred.

1955. You spoke of the exorbitant sums asked from you for the use of Patents such as 20,000*l.*

What is the largest sum that you have ever paid for the use of a Patent?—The largest sum that we ever paid for the use of a Patent was for Howard's Patent. We then paid 1*s.* a hundredweight. I have made a list of a number of parties who asked as much or still more from us.

1956. The object of my question is to ascertain not so much the sums asked as the sums actually paid for the use of Patents?—The sums actually paid are very large when the Patents are worth anything, but so few Patents are worth anything that we have not often to pay. The result which generally takes place is this—owing to the large sum asked, manufacturers do not use them. The use of the centrifugal Patent for cleansing sugar by centrifugal force was retarded by the large demand of the parties. We made terms with them at an early stage, and therefore we paid but a small sum compared with the sum which was demanded from others. We have continued to use that invention, one which is revolutionizing the trade all over the world.

1957. Do you think that sums of such a magnitude are ever paid for the use of Patents as to constitute a heavy tax upon the article?—There are constantly in all trades important improvements being made. That is the case in our own trade. Perhaps there is no trade more open to improvement than our own; and therefore I am quite certain that a day is coming when we shall have Patents which we require to use, as in time past there have been such Patents. The monopoly gives such power to the Patentee to demand a large sum from us that we must yield to his demand; but we have no assurance that our rivals abroad have any royalties of equal amount, or even any royalty at all, on the goods they send to the British market made according to the particular invention; and every one knows that the Custom-house will not impose any charge on importation to counterbalance the advantage of exemption from, or lower rate of, royalty. The result is that we shall be exposed to competition with other sugar makers and refiners, who will not have to pay what we must have to pay annually. I may say that a few years ago the British colonies were excluded from British Patents. An influential gentleman connected with the West India Association was shrewd enough to see that the sugar colonies would by such an exclusion get the full use of Patents for which we at home have to pay, and he prevailed on the Legislature to alter the law accordingly, reserving to the colonies the power of granting Patents or not as they chose. The result is that the colonists are making use of inventions for which we pay—inventions published for their or the world's benefit, under the promise or stimulus of a right to tax us; they are among the parties with whom we have to compete. So with reference to the continent, we have no assurance that the persons who do patent inventions on the continent will charge our rivals there the same as we have to pay. On the contrary, the law does not even require them to give the use of their Patents in the United Kingdom on any terms at all. If, for instance, a Frenchman had a very important sugar invention, he might take it out in Great Britain, and he might say, "Not a single British sugar refiner shall have the use of this Patent."

1958. Laying aside anticipations and apprehensions, can you state to the Commission any specific case in which the charge made for the use of a Patent in England has had the effect of checking that process in England to the benefit of persons using the same process abroad not subject to that charge?—It is extraordinary how little knowledge there is among men of business of what is going on elsewhere, or even among their neighbours, and therefore my inability to answer the question in the affirmative is hardly a proof that in many cases it may not be so. I am anxious rather to state this broad principle, that the present state of the law gives foreigners and colonists an advantage over British manufacturers, and that the sums which have been demanded of us and have been

paid by us, and may again be demanded from us and be paid by us, are such as tend to overwhelm our trade, and transfer it, in a great measure, to foreign countries.

1959. That is your apprehension, but you are not prepared to state any positive case in which that apprehension has been verified in practice?—It is a common thing for a refinery to refine 5,000 tons, and not quite uncommon to refine from 10,000 to 20,000 tons a year. 1*l.* a ton is a charge very frequently made by inventors. If their inventions had been worth anything, we would have required to pay that 1*l.* a ton. We might be obliged to pay several parties a royalty of that amount. The duty on brown sugar is 12*s.* 8*d.* a hundredweight, that is, 12*l.* 13*s.* 4*d.* a ton, so that the following would be the state of matters; we should be paying not only the customs duty to the State, but a large duty to the Patentee equal to probably 10 per cent. or 20 per cent. of the customs duty, and therefore constituting to that extent a protection in favour of foreigners, not a protection in favour of our own country.

1960. (*Mr. Fairbairn.*) Do not those excessive demands on the part of patentees operate injuriously to your particular trade when the demands are extravagant?—When we pay them they do, and any day we are liable to have to pay them, and we have paid them in time past.

1961. Have you paid more than one Patentee at a time?—Ours is a very complicated business. We have not merely the ordinary Patents to pay for steam engines and for economising fuel, and so forth, but a number of chemical and mechanical Patents applicable to sugar specially; for a number of those we have been asked from 1*s.* to 3*s.* a hundredweight, and we may have to pay any day three of them simultaneously.

1962. (*Lord Overstone.*) Do you think that it would be an advantage to abolish the Patent Laws altogether in this country?—I should like that exceedingly, but I have no such aim, and I have very little hope of seeing it.

1963. The injury of which you complain, namely, being compelled under the Patent Laws to pay a large duty in this country from which the foreigner is exempt, would only be met by the actual abolition of the present Patentees' rights?—By the abolition of the present system, but if the Commission will allow me I may mention two ways in which the difficulties that I have stated might be mitigated, by one of which ways indeed they would be entirely removed. The first is the proposition of the Liverpool sugar refiners. At a meeting of our trade we adopted certain resolutions which I had the honour of sending to this Commission. Our proposition was that every Patent affecting our trade should be valued at some early time, or say, within three years, that for three years the patentee should have a monopoly, and that after three years the Patent should be cancelled as soon as the parties subject to the payment of fees would make up the valuation price or as soon as the various fees or royalties which they have paid should amount in the aggregate to the valuation sum. The other proposition is, that the Chancellor of the Exchequer should be empowered annually to put at the disposal of the Patentees for the previous year a large sum for them to distribute by a committee of their own among themselves, so that the nation should in fact purchase every invention which any inventor thought proper to make known; a monopoly might, however, be conceded for a short time, say three years, to give the inventor a start.

1964. (*Chairman.*) Putting aside the latter alternative for the moment, and taking the former, do you think that it would be possible to ascertain the mercantile value of the Patent, that is to say, its value to the owner, within the first three years after it is taken out?—I have no hesitation in thinking it is possible. There might be differences of opinion as to the principle upon which the valuation should be made. I would not take into account the maximum profit

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to himself which the Patentee might realize by granting licences under the monopoly system; but the question should be, what is a fair remuneration, taking into account the cleverness of the invention, and perhaps also the expense incurred in perfecting it, and the advantage to persons using it.

1965. If I understand you rightly, that would not be a valuation of the Patent, because such a valuation would proceed on an estimate of the worth of it to the owner. You propose something different, namely, a certain reward, fixed upon wholly different principles, to be given to the Patentee in lieu of the Patent?—Very much so. I propose, in fact, a valuation of the invention rather than of the Patent.

1966. Do you think that it would be possible to fix the value of any invention in a manner which would prevent endless complaints and objections, or inequality and injustice?—I think it would be. I see no difficulty whatever, that may not be overcome, in carrying out the proposition of the sugar refiners.

1967. (Lord Overstone.) What test and standard would you use for the purpose of ascertaining the value of an invention before it could be brought into practical use?—I would allow the party three years' monopoly, and his experience during those three years would, I think, be a perfectly sufficient test and standard.

1968. Are not the cases numerous in which an invention, ultimately proving useful to the public and valuable to the Patentee, has failed altogether to develop its utility or value during the first three years of its existence?—No doubt; but in such exceptional cases I think it would be quite fair that Patentees should have the right to postpone the time of valuing, the public, nevertheless, after the three years, enjoying freely the use of the Patent.

1969. (Mr. Grove.) Have you not observed that the more valuable an invention is the longer is the time which it takes to bring it to bear, because the more valuable it is the more is it likely to oppose existing trade interests, and to require new plant and machinery, so that the more valuable inventions do not come into operation for several years?—I doubt whether the value of an invention has any relation to the period when it comes into use. I do not think that my experience bears that out; but my answer perhaps should be framed to apply to another sense of the term value. You probably by value mean the revenue or profit which under a monopoly a Patentee may receive.

1970. No, I would rather exclude that. I will explain my idea of value. You might have a small patent, for example, a new boot heel which might be extremely profitable, and which might come into use at once, because anybody could screw on a boot heel and improve a boot by paying a trifling royalty, and yet that trifling royalty might give an enormous payment to the Patentee. On the other hand you might have a class of inventions, such as a change in the metallurgic process by which you might extract copper or zinc at a cheaper rate; but there you would have to change the existing zinc or copper smelters works, and you could not do that probably in 14 years. That I should call an invention of the class to which I was referring. I ask you whether those Patents do not take a great many years to develop substantially?—I do not think that to bring an invention into actual use requires a very long time. I think that a few months is sufficient. To allow the Patentee three years I think would be more than sufficient time for him to prove to his own satisfaction and that of the inspectors the value of his plan.

1971. Would he prove it to the trade so that a third person should be satisfied of the value of his invention?—I think so.

1972. (Mr. Waddington.) Whom would you have to settle the value ultimately?—The Government, the Board of Trade perhaps, might fairly be trusted to appoint valuers.

1973. Do you think that that option of buying up an invention, which was your first proposition, would be

likely to be acted upon extensively?—In our trade universally.

1974. (Mr. Fairbairn.) Would it not be difficult to ascertain the value of a Patent in such a limited period as three years?—I can only speak of our own trade, but I see no difficulty in doing it in a much shorter time than three years. Such a case as the Howard vacuum pan I would make an exception, but I would allow in all cases where a particular inventor preferred it that the valuation of his invention should be postponed.

1975. Do you not think that under a very rigid and stringent examination by proper persons, thoroughly acquainted with the subject of the application of Patents, you would get rid of a great number of those frivolous Patents and so confer benefit upon the public?—Judging from our own trade I would not like myself to incur the responsibility of saying, with regard to a great many inventions, which are perhaps very trifling, that they are absolutely useless or hopeless.

1976. Are there not some of those inventions of scarcely any value which hang over you at times in your particular trade, and which the inventor maintains may be useful?—We have been very little troubled in that way, perhaps we occupy a favourable position with regard to that. All I can say is that there are innumerable cases in which troublesome people might come and give us trouble.

1977. (Sir W. Erle.) Is it easy for a stranger to ascertain the processes which you use in your manufactory. If a Patentee thought that you used his idea could he go to your manufactory and satisfy himself?—We would not allow him to come in, and supposing that he came in it would be difficult for him to see what our processes are and whether we are doing anything that might be infringements of Patented processes. It would be often almost impossible to detect them. To prevent misconception let me state that our principle has been to use no Patent without going to the Patentees.

1978. Supposing that I suspected you of using my Patented idea, could I watch you in the conduct of your business, or would you desire me to leave your premises?—We would not permit you, we would say—"You cannot get in."

1979. If Patentees have no means of ascertaining whether their idea is made use of in your manufactory I should presume that you would not be troubled by them?—I am not aware that we are using any of those 400 Patents. I should think that we are not. Our way is to go to the Patentees when we wish to make use of Patents and to treat with them. But the Patentees have always the power of ascertaining whether an invention is used or not, in this way. They can put a large bill in the neighbourhood of any manufactory saying that such a thing has been Patented and offering a reward of 100*l.* to any workman giving information of its use by any firm who are not paying for a licence. If that were done they could get from the working men the facts of the case, and there could be no evasions.

1980. Is there no such thing as combination among the workmen so that one who infringes the rules of the body is marked and ruined?—Not in our trade at all. Any man who knows anything of what is going on could not be challenged, it would not be even known if he was telling it.

1981. (Chairman.) Has it ever occurred to manufacturers to form associations among themselves for mutual defence against frivolous Patents?—I think not. What is everybody's business is nobody's. The manufacturers of this country are very neglectful in these matters. I do not think that there is much combination among manufacturers.

1982. I understand the plan proposed by the Liverpool sugar refiners to be this—that a Patent may be allowed to remain in force for three years, that at the end of that time it is to cease and that the inventor is to be remunerated by the trade using his Patent, the price to be paid being fixed by the Board of Trade

or some Government officer?—The system proposed by the Liverpool sugar refiners contemplated a valuation and an extinction of the privileges as soon as the price stated in the valuation is made up either from a common purse or from royalties paid.

1983. Would not that system imply a greater degree of combination among the manufacturers than has ever existed for such purposes?—So far as it was to be paid from a fund among themselves it would involve combination, but so far as it was to be made up from the royalties which they had severally paid it would not imply any combination properly so called.

1984. (*Mr. Grove.*) Would not that involve a somewhat elaborate inquiry. Taking the number of Patents in this country as 3,000 or 4,000 a year, and limiting it to useful Patents, would not it involve an elaborate inquiry and some trouble to ascertain what was the fair assessable value of the Patent at which the royalties should cease?—Perhaps it might be modified in this way, that the valuation should not be made till the parties paying royalty demanded that it should be valued. That would reduce the number of cases to the few in which it would be demanded. It would be only in a large trade such as our own that the demand would be made.

1985. (*Mr. Hindmarch.*) Would not it create a great deal of expense and require elaborate machinery to ascertain the collective amount of all those royalties?—I do not think so, I would just require that a Patentee or Assignee of a Patent should keep a record of the amounts which he has received for the use of his Patent from other parties. If any party had paid him a sum as royalty, and if it were not to be found in his books I think that improper absence of it from the account would be a strong ground for denying him the remuneration.

1986. Suppose a case, which is very common, that two Patentees having Patents for inventions relating to the same trade exchange licences. Of course no licence duties are paid by the one to the other. How would you deal with a case of that sort?—That is a question which I am not prepared to answer, but supposing that that were left out of calculation altogether, I do not think that it would be material.

1987. (*Lord Overstone.*) The whole object of your plan is to diminish the sum which parties pay for the use of a Patented invention?—That is the great object; I have stated that we are repeatedly asked, under the monopoly powers which the Patent Laws give, 1*l.* per ton. Our trade is one of those that are conducted with a small margin, compared with many others. At one per cent. profit we are remunerated. If we pay five per cent. to the Patentee where is our one per cent profit?

1988. Are the Commission to understand that it is your opinion that the trade of this country cannot now afford the expense to which it is subjected by the charge involved in Patent rights?—It is hard, or impossible for British manufacturers to compete with others who may not be so burdened; many trades may be able to do so, but as a general rule it is unfair and hurtful, and in some cases it will extinguish trades.

1989. You do not state any practical instance in which that impossibility of the English merchant to compete has exhibited itself?—The number of years is small since free trade was introduced; till free trade was introduced the difficulty did not arise. It is clear that if before that we had a protection of say 50 per cent. we could stand, say 20 per cent., for Patent royalties.

1990. (*Mr. Hindmarch.*) I understood you to say a few minutes ago that you think a bare profit of one per cent. sufficient?—No, not sufficient—remunerative; at that we would be content to carry on our own business. Manufacturers have to pay their licence fees when they are carrying their business on at a loss.

1991. And therefore you object to pay a licence fee of the description which you mentioned; would you ever pay that licence fee unless you obtained some commensurate advantage, I mean an advantage en-

abling you to get your one per cent., and perhaps something more?—You state the case clearly, but unfortunately the Customs have no authority or power to impose a duty on articles imported corresponding to the fee or duty that we have to pay to the Patentee. The result is, that the importer has an advantage over us which may gradually lead to the transference of important manufactures from our own country to the continent or the colonies.

1992. Your objection is, if I understand it rightly, that you cannot compete with colonists and with foreigners?—Exactly.

1993. Have you found that to be the case in actual practice?—We know that it must be the case; it is as clear as that two and two make four that, if we are to pay what others have not to pay, we are weighted to our disadvantage; there is a differential tax levied by our own country, and cruelly so, to our prejudice.

1994. You have been telling us something about the sugar trade; therefore, I presume that you are familiar with the processes used in the manufacture in Jamaica and in other sugar producing colonies?—Yes.

1995. Are you not aware that the manufacturers are a very great deal behind the time in other places as to their capacity to manufacture, and as to the description of apparatus which they use?—In some of the sugar colonies it is so, but it is not so with regard to all places, especially the continental countries. The following case is suggestive. The system of refining by employing centrifugal force to expel the syrup from the grains of crystalline sugar had been patented in this country in 1843, but was not introduced into any British refinery till 1850; at the latter date it was told us that there was some new plan of getting colour. I thought, or perhaps heard, that it might be by centrifugal action, and took pains to get inquiries made on the subject. At this distance of time I do not remember the exact dates or precise sequence of events, but they were much as I now state. We had never been asked by any Patentee, so far as I know, to adopt the use of any Patent for the centrifugal principle; and I am quite confident the centrifugal principle was never exhibited or explained to me by any person. We required to look about and make inquiries. Among other persons with whom we entered into communication or negotiations, were the eminent house who first introduced it into this country, and who had already applied for a Patent to secure, as I suppose, the application of the principle to sugar for themselves. After this, and after they were actually using the hydro-extractor for sugar, they found they had been anticipated, a discovery which, I fancy, we ourselves made before them in the course of our own investigations. We traced out that a house of respectability in the north had long ago patented the system; and, having put ourselves into communication with them, made trials with a model apparatus they had. We subsequently learned that they too, and possibly others, for others may have patented the principle, were anticipated so far back as the time I have mentioned, by my fellow-townsmen Mr. Laurence Hardman, to whom belongs the honour of having introduced the application of the hydro-extractor and the centrifugal principle into the manufacture of sugar. And I may mention a remarkable circumstance; the operative manager of that gentleman's works in India was experimenting there, on the application of this principle, almost as soon, or about the same time, as Mr. Hardman himself experimented here, neither party having any concert together or exchange of ideas. This fact, and the others I have mentioned, show how speedily and almost simultaneously do similar inventions, or at least adaptations, occur to a number of unconnected persons. I let Mr. Hardman know that our firm was willing to negotiate for a licence, for an interest in the working of the Patent, or for a purchase of the Patent rights. He expressed himself in such a way as to show that he had not been minding his invention. Soon afterwards, unfortunately, without coming to our firm, he con-

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cluded a transference of his rights to a party not engaged in any regular business, (who had on the continent come to know something of the movement in progress,) and as it appeared, for a consideration quite disproportionate, that party having made certain representations about a Patent he himself was applying for, which proved when specified to be of questionable value and validity. Eventually the principal parties, (including Messrs. Manlove and Alliot, the original Patentees of the hydro-extractor so far back as 1837 or 1838, who missed the appropriation of the principle to sugar, by this article not being *ejusdem generis* with the articles to which they had specified its applicability,) formed a coalition for the sale of privileges comprehended in the several Patents. We came to terms with them, and for a large sum, though a sum much less than they demanded from others, secured a licence, and we are working the apparatus to this day. The rate first contemplated by one of the Patentees was 2s. per cwt. if I remember right. The rate which was eventually charged, though a great deal lower than that, was still so high that a comparatively small number adopted the system, and these only to a limited extent, during the currency of Mr. Hardman's Patent. The charge made for the application of the hydro-extractor to sugar was, as I have just said, very high; a vast sum was expected for it. But the cost of experiments was not such as to constitute any claim for this; nor the originality of the idea, for it was a mere application, and so very obvious a one that several parties patented it, as I have shown. The great merit is due to the inventors of the machine, who got comparatively little advantage from the affair, if they did not even rather suffer from interference with their sales, which probably they themselves think they did. Then again the Patentees, as well of the first as of the latter claims for the monopoly, did not so push the introduction of the invention as to entitle them to special favour; nor, indeed, can it be said to have been by them introduced at all, for the first practical use in Europe was on the continent, whence it was, as I am convinced, introduced independently of them.

1996. (*Chairman.*) I understand your objection to Patents altogether to be that they constitute a protective duty to foreigners against the British manufacturer; but in considering that it is necessary to take all attendant circumstances into account, have you considered how far your greater command of labour, machinery, and coal, and your greater facilities for the disposing of your goods compensate for the disadvantage so incurred?—No doubt those circumstances go to a certain extent in our favour. Still that does not excuse the Government for putting us knowingly on an unfair footing.

1997. Is there any other suggestion, with reference to the subject of Patents generally, which you wish to offer to the Commissioners?—I ventured, in the answers which our firm has sent in, to allude to the value of the Indices and Specifications which are published by the Patent Office, and I think that the system might be carried out still further. I think that classification might be carried further, that the same invention might be shown to be applicable to, and appear in, a considerable number of different classes. It occurs to me that the system of having patent libraries in different parts of the Kingdom, accessible to all parties wishing to refer to Patents, is an admirable one, but it might be carried still further by presenting the volumes of Indices (I do not mean the Specifications) to public libraries generally throughout the kingdom.

1998. Is not it the case that the Patent Office publications are very freely given away to the public libraries in all the large manufacturing towns and in all places where they are likely to be of general use?—I hardly think it is so. If it is, well and good. If not, I think that it would be well if they were presented gratuitously to all the libraries of the kingdom. I do not mean the full specifications. Generally the institutions that would be glad to receive the series of Specifications find that they take so much shelf room,

and the cost of binding is so great, that they find it inconvenient to receive them.

1999. (*Lord Overstone.*) From what source would you defray the expense of that extended system of publication?—The revenues of the Commission of Patents are sufficient to pay for that.

2000. Are not those very revenues that tax to which you so strongly object?—No. Allow me to supplement what I have said already as to privileges by adding that even if they were to be abolished it would be fair and wise to allow every discovery and invention, or even any idea affecting the arts and manufactures, to be officially registered and rewarded with a honorarium or some sort of honorable recognition that would please and stimulate parties cognizant of improvements, and would contribute to their success in promoting the sale of the articles, the novelty and merit of which should be thus certified.

2001. You propose an extended system of publication, the expense of which you say must be defrayed out of the revenues of the Patent Law Commissioners. Those revenues of the Patent Law Commissioners are derived from the maintenance of that very charge which you call an unjust tax upon the English inventor. How do you reconcile your objection to the maintenance of that unjust tax with your suggestion that the expense of the extended issue of publications on the subject of Patents should be defrayed out of that tax?—If the tax, by which I understand the money paid to Government for Patent privileges, is to be continued, that appears to be a legitimate application of it. If the tax is not to be continued, the public exchequer might afford what I want. I do not think that practically there would be a great difficulty.

2002. (*Mr. Fairbairn.*) According to your theory if Patents were to be registered in the way which you describe, and to be rewarded with medals or a honorarium, do you think it would suit the Patentees; it would not remunerate the Patentee who had spent a large fortune to bring his Patent into notice, would it?—I would be pleased rather than otherwise (because every one likes to see his neighbours thriving) at a handsome sum being devoted annually by the Government to the rewarding of inventors, and there might be the addition I have already spoken of, of a medal or an honorable recognition, which the inventor might be able to advertise and say, this is an invention which has been honored by the Government.

2003. Have you ever contemplated any plan of reimbursing that money which might be expended in that way by the Government?—My impression is that 200,000*l.* a year would be a most handsome remuneration to inventors, while the present system costs the country, I should say, nearly 2,000,000*l.* (besides the chance of losing some part of our manufactures and also of our export trade,) not that the Patentees themselves receive any more than a fractional part of that sum. I think one very serious consequence of the Patent Law is that we lose facilities for perfecting our manufactures, by every manufacturer not being at liberty at once to avail himself of all improvements. We have not the power of combining inventions that are naturally connected, and might be mutually helpful, and still less have we power to avail ourselves of these gratuitously, as our rivals in some other places have, and therefore we may be distanced in the race of competition with other countries.

2004. (*Mr. Hindmarch.*) Do not you in effect propose a substitution of one tax in place of another? I do not see that.

2005. This money is to be paid out of the public revenue. That revenue must be raised by a tax in some way or other?—I am anxious to have no Patent which would fetter manufacturers and which would unfairly burden manufacturers. So far as the Patent fees are paid on any article that is consumed in this country, the consumer eventually pays them undoubtedly. For the 200,000*l.* that the body of con-

sumers would pay if paid out of the exchequer, they at present probably pay 2,000,000*l.* Therefore the nation would gain largely, even though the consideration-money that I mean the Exchequer to appropriate to inventors would involve some slight absorption of taxes.

2006. (*Lord Overstone.*) If any large annual sum were paid out of the exchequer to remunerate a certain set of Patentees would not that be in principle and practice a government bounty in favour of the trades benefited by the particular Patents?—It would, but with this qualification; that the advantage which those particular trades derive would go entirely to the public, therefore the manufacturers, or the trades who got the benefit, would merely be the channels for conveying the benefit to the public. I contemplate a yearly grant of not more than 200,000*l.* at the utmost. I may be permitted to observe that it is of the essence of a Patent to be a bounty to particular persons, and the reverse of a bounty to other persons, (who may be engaged in the same trade,) which is really objectionable.

2007. (*Mr. Grove.*) Do you think that it would be possible to make adjudications of those money grants to inventors so as to give anything like reasonable satisfaction. We found even in the awarding of mere honorariums at the International Exhibition a grievous amount of complaint. If, as you propose, substantial pecuniary benefits were given to inventors would there be any chance of your being able to do so without creating great general dissatisfaction and rivalry?—In order to avoid that I propose that the inventors of each year should have the right of nominating their own valuers and their own committee, so as not to make it a Government affair.

2008. (*Mr. Hindmarch.*) How would you get a man at Glasgow and a man at Cork to concur in making any particular appointment?—I do not see any difficulty.

2009. The man in Glasgow would choose one and the man at Cork another?—The man in Glasgow would employ a London agent and the London agent would advise with him as to whom he should nominate.

2010. Do you think that the London Patent agent would know anything about the value of a sugar refining process?—I suppose that the valuator would need to make all inquiries. By inquiry he would be able to ascertain what the value of a process is, I think.

2011. (*Chairman.*) Is there any other point upon which you wish to make any suggestion to the Commissioners?—Another suggestion which I would venture to make is that if a system of buying Patents for the public internationally were carried out it would be very advantageous; that is to say if the various Governments of Europe and America were to abolish all exclusive privileges, and were each to grant a certain sum per annum for inventors, it would be much better for the interests of the several nations.

2012. As a matter of fact there is not a country in the civilized world which has not a Patent Law, is there?—There are some I believe which have not. Switzerland I believe has not, and some of our own colonies have not.

2013. But all the great nations of Europe and the United States have?—Even small places have to be considered. I do not know that Hamburg has a Patent system; there used to be a great deal of sugar refined there. Very likely some of these smaller places have not.

2014. Have you any further suggestion to offer?—I would venture to propose that a return should be got of the number of Patents affecting sugar refining, and the employment of animal charcoal, in the various sugar countries and in our own, because I think that return would prove that we are subject to a great many sugar Patents which our rivals in our own colonies even are not subject to. This by a particular case would illustrate the general principle. With

respect to Patents generally, the subjects of Patents are of many different kinds. There are articles ready for public use. There are articles ready for use by manufacturers, but which are only helps towards making other articles ready for public use. There are raw materials. There are processes. There are principles. All those ought to be dealt with differently. That persons should have the power of extorting from manufacturers, shipowners, miners, agriculturists, &c., any amount of payment by royalties upon the use of those different kinds of Patents is very hard. I would not pronounce it a great hardship that the inventor should be at liberty to preserve the monopoly, and charge as high a price as he pleases, for a novel mustard-pot or carpet-brush, or any article for family use. It is a very different matter when, by inventing any manufacturing apparatus, or process, or raw material, that the progress of trade requires all the makers of some extensive article to employ; he embarrasses them in their operations by refusing licences, or charging prices which are burdensome and hurtful, or wrongous, and introduces disparity of terms and treatment, which is an almost inevitable characteristic of the system now in operation. Find now-a-days a new trade, such as the original toleration or sanction of invention monopolies (at a time when all other monopolies were made illegal) of invention monopolies apparently contemplated, and few will object to its being fostered or distinguished by exclusive privileges. It is wholly a distinct proposition to continue a system that has become almost universally, or at any rate far too often, a means of letting one person interfere with other persons' established trades, and with their liberty to conduct these trades to the greatest individual and national advantage. What is the case of manufacturers is, more or less, the case of shipowners, miners, and agriculturists. Then again, I think that it would be well to consider who are the different parties who make inventions. Is it workmen chiefly, or their masters, or tradesmen whom masters employ, or savans, or mere schemers, or persons who deal in inventions and who make a sort of trade in looking up new ideas? Or is it invention importers we have to do with? Very different treatment is due to those several parties or classes. In the case of workmen it is pretty clear—that they would rather have a bird in the hand than two in the bush; they would rather have a positive though moderate Government grant than the prospect of a large sum at some uncertain future. The most important thing to be borne in mind is the advantage to manufacturers of being free to use whatever they think fit. To revert to my own business for illustration—it is impossible, with so many as 400 Patents taken out within a very few years, for sugar refiners to make themselves acquainted with them all. They must frequently be exposed to the risk of using other people's inventions without knowing it. That is not a very pleasant situation; practically it is impossible to master the various Patents which have been taken out.

2015. (*Lord Overstone.*) Have you ever been seriously inconvenienced by applications being made to you in consequence of your having unknowingly used some Patent process?—We have not, except in the case which I have mentioned already.

2016. (*Mr. Hindmarch.*) Would it be a very expensive thing to you, to buy copies of all the Specifications which come out in any one year, relating to your business?—Certainly not; I do not think that it would cost much more than 20*s.* a year altogether.

2017. Do you not know that a great many manufacturers in this country do that continually?—We buy a good many Specifications ourselves.

2018. Therefore you have no difficulty in ascertaining what Patents have been taken out in your business?—The difficulty is to understand them, and also to bear them in recollection for 10 or 20 years. I have only to plead on behalf of manufacturers that some plan should be devised by which, while the

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inventor shall be properly rewarded, the manufacturer shall be properly protected. I have no wish that inventors should want any honorarium, or any profit which is fairly their due, but we want some plan by which we shall be put on a fair footing with our rivals. So long as we pay what our rivals do not pay the footing is not fair. It is very hard indeed that a party should have the power of refusing the use of an invention which it is important for a manufacturer to have; he might say, "I have an ill will against you, I will not give you a licence on any terms, yet I will give it to your neighbour." A foreigner might take out a Patent and he might say, "I will not give it to any Englishman."

2019. (*Chairman.*) Is not there sufficient security against that in the fact that he punishes himself by losing his profit?—I hardly think that that consideration relieves us from the difficulty, because very foolish things are done by people. Very strange things happen in practice. Nothing is more strange, for example, than the small number of inventors who apply to us to adopt their inventions.

2020. (*Lord Overstone.*) Is not one of the strange things which happen in practice this, that in practice none of the apprehended grievances which you have expatiated upon have occurred?—But they must occur the first hour in which we have an important sugar refining Patent. Several important Patents have been taken out, but without exception all have been previous to free trade. We must have in the ordinary course some exceedingly important Patents, and then we shall be asked to pay probably at the rate which I have mentioned, 20,000*l.* a year. One firm which I could name may have to pay twice that sum for a single Patent.

2021. You are unable to state that that has yet occurred practically?—It is only ten years since the new Patent Laws have come into force, and it is for a less time that we have had free trade in sugar.

2022. During the last 10 years the practical grievances which you apprehend as in prospect have not actually occurred?—They have not occurred.

2023. (*Mr. Waddington.*) You account for that by saying that no Patent of value has been taken out, but you apprehend that if a Patent of real value were taken out the grievances would occur?—Yes; we must in that case have to pay many thousands a year.

2024. (*Mr. Hindmarch.*) You propose that legislation should take place not to cure any existing ascertained grievance, but to prevent the possibility of any injury in future?—Exactly. Not so much from our experience of grievances, as to prevent

those evils becoming practical which in time past we have had grounds to apprehend, and which may be justly feared in the future.

The witness has added the following note:

Reflection on my evidence as to the very small amount of inconvenience that our firm have felt from the multiplication of Patents in time past, led me to consult other houses. I attach the opinions, therefore, of Messrs. John Fairrie of London and Liverpool, (1), Alfred Fryer of Manchester, (2), Augustus W. Gadsden of London, (3), Messrs. Duncan, Bell, and Scott of London and Greenock, (4), and James Leitch of Liverpool, (5), all men of ability and large experience, and who mostly all have themselves taken Patents. The answers partly differ from the evidence I gave, which may be accounted for thus: that we at least have been among the comparatively unprogressive. I can hardly avoid this conclusion, from the conditions of the case.

1. "As to the question whether any public inconvenience was caused by the multiplicity of Patents, I should have no hesitation in answering it in the affirmative. It occurred to us lately, in making what we considered a trifling alteration in our apparatus, that we were informed we were infringing a Patent; and such things have occurred to us before, where we had not the slightest notion that a Patent could have been thought of, the matter was so insignificant."

2. "In the 15 years we have been in business we have only had to adopt three patented inventions that we remember. In two of these cases the charge demanded was neither large nor oppressive. In one case (Centrifugal Patents) we had to pay a large sum. I do not think that the multiplicity of Patents embarrasses us as refiners. Though not in reply to the question, I may add that the oppressive character of the Patent law is experienced by us in the fact, that when Patents are taken out in *England only*, and we have to adopt them, we are under an artificial disadvantage, as compared with other competitors. And this is not counterbalanced by Patents being taken out in Holland, Belgium, or France, which continental refiners must adopt, and we escape paying a Royalty, for the greater number of Patents are taken out in England."

3. "Your question involves a large subject, and is very difficult to answer in a few words. The bare question put as in your note: Does the multiplicity of Patents embarrass the refiner? is easily answered in the affirmative. The former question remains, Are you prepared to recommend the abolition of all Patents? To that question I am not prepared to give a decided answer."

4. "We have never at any time been embarrassed in our operations through Patents."

5. "In reply to your note, I do not think that the sugar-refining trade has ever been embarrassed by multiplicity of Patents."

The witness withdrew.

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Esq., F.R.S.

THOMAS WEBSTER, Esq., F.R.S., further examined.

2024a. (*Chairman.*) You wish to make some additions, I believe, to the evidence which you gave to the Commissioners on a former occasion?—There are one or two matters which I wish to say a word upon. With respect to the part which I took in the amendment of the Patent Law, I may say that the Act which passed in 1852 was the result of a very extended inquiry, in which the interest of the poor inventor, rather than of the capitalist, was considered. Since that time there have been several committees of the British Association and of the Social Science Association, which have, as regards the question of the cost of Patents, and the question of a preliminary inquiry, invariably taken the view that it was for the interest of the poorer inventor, distinguishing him from the inventor who had capital at his command, that there should be some preliminary inquiry; that the cost of Patents should be reduced; and that the inventor was entitled, out of the Inventors' Fund, to obtain information accumulated by means of that fund as to what might conflict with his supposed new invention. I will hand in to the secretary copies of those reports of the British Association, which show distinctly the views enter-

tained from that time to the present by the committees of that Association (*handing in the same. See A. and B.*)

2025. (*Mr. Grove.*) Have you a copy of the recommendations made by the joint committee of the British Association and the Social Science Association which were adopted at Manchester and printed for circulation?—I will furnish one to the Commissioners. (*See C.*)

2026. (*Mr. Fairbairn.*) You were a member of those committees, were you not?—Yes. There has been a committee about every other year since 1852, the three great points insisted upon being, that a proper library should be provided; that the poorer class of inventors required, and that all were entitled to, some assistance, such as would result from a preliminary inquiry, and that there should be a reduction of fees.

2027. You have entered pretty fully into the views of the committees of the British Association which have been appointed at different times?—Yes.

* This was the only question put in Mr. Macfie's inquiries. He gave no indication of wish or expectation that the answer should be either negative or affirmative.

I think that those committees were unanimous on the views which I have now expressed. Mr. Waddington asked me (at 1674) some questions about the alteration which had been made in the Act of 1852, as regards making it not compulsory but optional with the Law Officers to call in assistance or not. I have brought with me the Bill which was amended in the House of Commons, showing the precise amendments. The House of Lords had the original Bill printed with the amendments, and this Bill shows exactly the parts struck out and the parts which were altered in the House of Commons. The Bill of 1851 was lost for want of time, but it came back from the House of Commons, as regards this point, unaltered. The Bill of 1852 was altered in the House of Commons, and those were the alterations (*handing the Bill to Mr. Waddington*). The Solicitor-General, Sir William Page Wood, and the Master of the Rolls, Sir John Romilly, before the committee of the House of Lords, expressed their views upon the working of the system by the Commissioners very distinctly. Having consolidated the two bills I explained the provisions to the committee; and then the Master of the Rolls was asked to state his views with reference to the first clause, the first clause being to the effect that the Lord Chancellor, the Master of the Rolls, the Law Officers for England and the Law Officers for Scotland and Ireland, with such other person or persons as Her Majesty may appoint, shall be Commissioners of Patents, and that Her Majesty may from time to time appoint such other person or persons as she may think fit to be a Commissioner or Commissioners; the powers to be exercised by any three or more of them, the Lord Chancellor or Master of the Rolls being one. The Master of the Rolls says (Question 2786, Evidence 20th June 1851), "It is to be observed that they "are to be united with certain other persons whom "the Queen is to appoint to be Commissioners" ("they" meaning the Lord Chancellor and the Law Officers). "I have no doubt, practically, it would be "found that those persons so to be united with those "functionaries would be the persons upon whom the "labour would principally fall, and that, in fact, the "others would only be occasionally employed for "the purposes of checking them, or giving them any "assistance which, from their knowledge, might be "found necessary or convenient."

2028. The Master of the Rolls is then asked (Question 2787), "You think it would be necessary "to have some legal functionaries of that descrip- "tion to check the other examiners, even though it "should have the effect of somewhat diminishing "the responsibility of the other Commissioners?" and replies as follows:—"I think it essential that "you should have some one to check the Com- "missioners, and for that purpose it seems most "natural to employ the persons who have hitherto "been most conversant with the subject of Patents." Then the Solicitor-General is asked his opinion, and he says (Question 2798), "I quite concur "with the Master of the Rolls, I do not see any "real practical difficulty in appointing the officers "who are named in the second clause," (which is the first section of the Act,) "namely, the Lord "Chancellor, the Master of the Rolls, and the Law "Officers, the principal subject matter to which "they are to attend being the making of rules and "regulations, that will be the only work which they "have to perform, because though, as has been men- "tioned, they will have ministerial duties, the minis- "terial duties of those officers will be next to nothing; "the ministerial duty will fall upon the examiner "who is to examine the objections made to Patents, "and upon the Law Officers, to whom there is to be "an appeal."

2029. (*Mr. Waddington*.) It seems that the ap- pointment of an examiner was considered a matter involving an important principle of the new enact- ment?—Yes, and though the clause for the appoint- ment of examiners was taken out of the bill, the first section, providing for the appointment of other

persons than the Lord Chancellor, the Master of the Rolls, and the Law Officers of England, Scotland, and Ireland, is left in. I was pointing to that particularly as a principal feature in the Act which had not been carried out.

2030. Your opinion is that it would be desirable in that respect to revert to the bill in the state in which it passed the House of Lords?—In principle I think that the present Act of Parliament which provides for special Commissioners is quite sufficient; I have reason to suppose that the Committee of the House of Commons in making that alteration thought the first clause providing for the appointment of other persons besides the Lord Chancellor and the Law Officers, as special Commissioners, would be ample for the purpose.

2031. Without the provision that Specifications should be referred to them?—It was to be presumed that the spirit of the Act would be carried out as well as the letter. The Act of Parliament having made it permissive for the Law Officers to call in assistance, and not compulsory, left the whole manage- ment of that part of the system in the hands of the Law Officers; the result has been that the Law Officers of Scotland and Ireland have been excluded from any participation in the duties of the Com- missioners; the whole matter now devolves upon the Law Officers of England, and it is a very onerous duty, seeing the number of applications for Patents.

2032. Do you still consider it desirable that in every case the Specification should be referred to some competent person other than one of the Law Officers?—Most decidedly; a part of the vice of the present sys- tem is that there is no one person in any respect respon- sible for the grant of the Patent, and the result is that the applications being made to different Law Officers, Patents are granted for the same thing. All that is required in the first stage, namely, provisional pro- tection, (which is a document frequently prepared by the inventor himself, and this I trust always will be very much the case, because it gives him a security which he certainly does not always feel by going to professional persons,) is for some person to be satisfied that there are no conflicting claims in the office, but when you come to the subsequent stage of the Patent being proceeded for, then arises the necessity for a preliminary examination as regards novelty and as regards the opposition of any persons who have any interest to be protected, and which is provided for by the 12th section of the Patent Law Amendment Act.

2033. Do you think that provision sufficient?—I do. The first section of the Act empowering the appointment of special Commissioners has become a dead letter. The whole scheme is to place the juris- diction in the Commissioners, subject to any regula- tion which they may like to make. There is nothing to prevent special Commissioners being appointed under this Act and examiners also, the Law Officers acting as a court of appeal over them.

2034. Have the Law Officers in the case of oppo- sition any power to give costs?—Yes. That is by the Act of Parliament. Then there is another matter in which the Act of Parliament has not been carried out in the spirit of it, and perhaps not in the letter. One of the great objects of the Act was to avoid a multiplicity of offices, and to have all the documents collected in one office. At the present moment the distinct offices of the Law Officers, the Attorney General, and the Solicitor-General are continued. Caveats are still entered there, and applications for disclaimer are still made there instead of being made at the Office of the Commissioners of Patents. A good deal might be done under the existing Act of Parliament to improve the proceedings if the Com- missioners should think fit to recommend it, without the delay of further legislation.

2035. (*Chairman*.) If I correctly understand you the preliminary inquiry which you propose goes to the point of novelty only?—Of novelty only; and novelty only as regards what I may call printed and published documents, as contra-distinguished from what was alleged to be in use by manufacturers.

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2036. You would not have the examiners look beyond the four walls of the Patent Office. You would propose that they should merely declare that no Patent of a similar description was found recorded there?—I would not limit them to that. It might happen that the matter, though not recorded in the office, was published in print. The great object I conceive is to prevent the inventor, who may have no means of getting experienced professional assistance, wasting his time and money upon an invention which is old, or may have been proved to be impracticable.

2037. (*Lord Overstone.*) Do you propose that a Patent should be refused for want of novelty, or merely that a doubt as to its novelty should be made publicly known to the Patentee and to the public?—I should propose that the objection to its novelty should be made known to the Patentee in the first instance, and then I conceive he might amend his application or abandon it, as I know inventors are not indisposed to do when they believe that they are well advised as to the objections which are made.

2038. In the last resort would you consider a report unfavourable to the novelty as being monitory only, or as being prohibitory?—I would allow an appeal, and that should be conclusive.

2039. You would have a Patent refused if an objection to its novelty were sustained?—Yes, after an appeal.

2040. (*Mr. Waddington.*) Would you propose that the appeal should be to the Lord Chancellor?—That would be a question. My view upon that point is this: the Law Officers are now called upon to discharge duties which are very onerous upon them, and which do not really require officers of that position to discharge them. I think that all those preliminary duties connected with the granting of Patents might be very well left to some special Commissioner or examiner, but you could not possibly have a better person for appeal in the first instance than one of the Law Officers.

2041. (*Mr. Fairbairn.*) Supposing that the examiner reported against an invention would you allow the inventor, if he chose, to go on with his Patent?—No, I would not allow him to go on with his Patent if after an appeal it was decided that the invention was disclosed in a preceding Patent; because looking at the disposition which there would be to grant Patents rather than not to grant them, I conceive that neither the examiner nor the Law Officer would refuse a Patent except on a very clear case.

2042. Would not that appeal throw expense upon a poor inventor?—I think that those expenses ought to be paid out of the fees paid on Patents, or "Inventor" fund, as it has been termed, except where the applicant was really wilful. I think that there should be discretion as regards costs; but the substantial expenses and even those of the appeal probably should be out of the inventors' fund, subject to some discretions as to costs.

2043. If you did not allow an inventor to go on with his Patent, supposing the examiners to report against it on the ground of utility, and supposing it to be likely to become a useful Patent, would it not operate injuriously on inventors?—I would not allow them to consider the question of utility. No tribunal is competent to judge the question of utility, no one can tell the results from a change apparently small; therefore it would be extremely injurious to the interests of inventors if the question of utility were for a moment allowed to be entertained. But what I am putting before the Commission is that the inquiry should be as to novelty only.

2044. (*Mr. Waddington.*) Is not the question of novelty often a question of difficulty?—I think not. If it were the inventor would have the benefit of the doubt. I am assuming what is an every day occurrence, the case of a patent which has been previously published. I think, seeing the restrictions which may be placed upon an inventor as regards licences for instance and other matter, that it is but right that he

should have that assistance, as regards a knowledge of previous Patents, which can be given him at an extremely cheap rate in the office.

2045. (*Mr. Fairbairn.*) Is it your opinion that it would be advantageous to the inventor himself to have an inquiry made into his Patent by people competent to judge of the matter?—I think that it would be most advantageous to the inventor himself. With respect to the grounds for refusing a Patent, a great many inventions, especially those made by ignorant people, involve perfect absurdities, for instance, perpetual motion or the alchemy of early times. That is a class of cases in which possibly the examiner or special Commissioner might go a step further than on the question of novelty only. But at the same time it must be borne in mind how much science is indebted to the schemes of those visionaries, how much mechanical science is indebted to the perpetual motion schemers, and how much chemistry is indebted to the alchemists. So I think with regard to anything of that sort that although it might be apparently absurd, it would not be right that the Patent should not be allowed to go forward. The way in which I justify the granting of a Patent for matters in which might be thought an absurdity is, that in past history those visionaries have led the way to important improvements in mechanical science and chemistry.

2046. (*Mr. Hindmarch.*) I gather from you that you would only refuse a Patent in a very clear case. Is not it the law at present that if it is brought to the knowledge of the Lord Chancellor that the invention is clearly old he will not grant a Patent?—The theory is so; but we all know the enormous expense of going to the Court of Chancery, and though that is the law it is not the practice.

2047. It has been done?—It has been done, but at great cost. Look at the expense of the whole thing. First of all you go before the Attorney-General, frequently at a very great expense (for if the bills of costs which are incurred, and necessarily incurred under the present system in opposition before the Law Officers were referred to, they would be found to be a frightful tax upon the inventor), and beyond that the expense of going to the Lord Chancellor is very great, whereas you could have very much cheaper and more certain machinery if that system which I have pointed out were carried into practice.

2048. The Law Officers do occasionally stop Patents, do they not, when they find that the invention is wanting in novelty?—The present Lord Chancellor refused to go into that question in one case, to my knowledge.

2049. The practice now is different, is it not?—I know that it is the theory that the Law Officers go into the question, but practically it comes to nothing. How would it be possible for the Law Officers, even if they had nothing else to do, to go into that question? They have not the time. If the system had been carried out which was contemplated when the Patent Law Amendment Act was passed, and if the services of the Law Officers of Scotland and Ireland had been retained, you would have had some further assistance, but the first act of the Commissioners was to throw the whole duties upon the two Law Officers of England, and there is no practical means of any persons opposing with effect except at a cost perfectly frightful. The Commissioners might, perhaps, be able to obtain some information as to the actual costs incurred in the proceedings before the Law Officers, and might also ascertain how many Patents have been stopped before the Law Officers.

2050. (*Sir W. Erle.*) Would those costs be principally the costs of the advocate, or costs for witnesses?—They would be principally costs of attendances, journeys to London, professional assistance, affidavits, and declarations of witnesses, and miscellaneous costs. The bills of costs are perfectly enormous, so that no poor inventor could stand them.

2051. (*Lord Overstone.*) A return of the number of Patents applied for and the number refused by the Law officers could no doubt be obtained, but is there any mode of obtaining any authentic information as to the

costs to which you allude?—Solicitors might be applied to for their bills of costs. The fees to the Law Officers are extremely small, and the fees to counsel are not large, but the great expense consists in the general fees for copies of declarations and affidavits, journeys to London, and numerous appointments, the consequence of necessary delay, owing to the multiplicity of business of the Law Officers.

2052. We could only get a general statement of the universal understanding on the subject?—You could get some bills of costs. The costs are so enormous that oppositions have almost ceased.

2053. (*Mr. Hindmarch.*) Are not those bills of costs chiefly the costs of Patent Agents?—I am referring to the bills of costs of solicitors who have conducted the business in such cases.

2054. There are no means of taxing the bills of costs of Patent Agents?—No. It might be a beneficial alteration to put the Patent Agent on the same footing as the solicitor in that respect, but the Patent Agent deals more usually with matters of science.

2055. If a solicitor acts as a Patent Agent, you can tax his bill of costs?—You can tax part of it.

2056. (*Mr. Waddington.*) If there were examiners regularly appointed who would undertake those examinations, you think that the inquiry might be conducted more cheaply, and that, if necessary, there might be an appeal to the Law Officer of the Crown, which would be a cheaper process than an appeal to the Lord Chancellor?—Yes, and there might also be a further appeal, if necessary.

2057. That would be a cheaper process than an appeal to the Court of Chancery?—Yes. With respect to a question which is very much agitated, viz. the question of compulsory licences, which the last witness has been a great advocate for, if it were to be made a subject of inquiry, that question would very properly in the first instance be dealt with by the special Commissioners. That might be a very proper case in which to give an appeal, and I think the Privy Council would be an excellent court of appeal in such a question. They do now virtually take the question into consideration in granting extensions.

2058. Do they ever impose the condition of giving licences?—They have done so in several cases, and they have also imposed conditions as to prices. Another important result which would follow from having all applications for Patents, and also for disclaimers and memoranda of alterations, which is now a very important subject, reviewed by the same persons, having practical experience in the operation of such alterations, would be that you would get consistency of decisions. One of the great sources of expense to inventors who apply for Patents is the inconsistency of the decisions of the Law Officers as regards Provisional Specifications. There is no appeal, and no means of reviewing them. You have nothing settled as to what is a proper Provisional Specification. Each Law Officer goes through a very great amount of labour, especially if he comes fresh to the work, in his endeavour to do what is right in the matter. I know that the pains that the Law Officers take is immense, and the trouble thrown upon them is immense, till, having attained experience, the thing becomes a matter of routine. If you had a special Commissioner or examiner, whose responsibility would be at stake, and over whom the Law Officer would preside as Judge, the saving of expense to the poorer class of inventors would be enormous, both in the first instance and also in preventing them from running their heads against old fruitless and useless inventions.

2059. If the decision on the ground of want of novelty was final that would prevent persons from proceeding with Patents of no value at all?—Yes; persons get embarked in a thing of no value and it would be of immense importance to stop the thing *in limine* if the invention is not one that is new or is not likely to answer. Those are cases in which the inventor would be saved a great deal of trouble and expense. You prevent expense in the first instance,

you prevent persons embarking in it, and you prevent the accumulation of expense which is due to the first false step. At the same time you have a record of all their attempts and speculations.

2060. (*Chairman.*) Is there any other point in your former evidence with regard to which you wish to add anything to what you have stated?—With respect to the point of compelling objectors to state clearly their grounds of objection, the investigations which now take place before the Law Officers are almost entirely *ex parte*, which is an extremely inconvenient course. Very often the Law Officers speculate in the dark and are afraid to ask questions with a view to obtaining information for fear of disclosing what the invention of the other party is. As regards that it would be a great improvement if the opponents to a Patent were required to state their objections distinctly in writing, that is to say, if there were another prior invention set up the statement of it should be in writing, so that the opponents might be bound in the same way as the applicant is. The advantage now is in favour of the opponent; the opponent is not bound by anything except general objections. It would be a most important alteration to make that every person opposing a Patent should state distinctly in writing what the grounds are on which he opposes.

2061. (*Mr. Hindmarch.*) Though he cannot see the Provisional Specification?—Yes. The Provisional Specification might be made an open document after four months, it would not be safe to make it open at an earlier stage because it would interfere with foreign Patents, but seeing that under the old law the period for completing the Specification was two months, if the Patent extended to England only, and that under the present law it is six months, there could be no hardship in the inventor being obliged to mature his invention to such an extent within four months that the Provisional Specification might become an open document, so that the opponent might have an opportunity of seeing it. That is a matter of detail which no doubt the special Commissioners in consultation with the Law Officers might settle; but the hardship upon the applicant now is that he really does not know on what grounds he is met in opposition, and the opponent does not know whether his apprehensions may not be wholly groundless.

2062. (*Mr. Fairbairn.*) What is your opinion upon the question of a separate tribunal for the trial of Patent cases?—I think it would be extremely inexpedient to take the trial of them away from the present courts. I do not see that you could have the causes tried better than they are tried now, provided that you could get rid of the jury, though I would not get rid of the jury in all cases, because there are cases of disputed facts where the jury would be wanted as much as in any other case, for instance, as to whether the thing for which the Patent is claimed was done 30 years ago. I would make a rule that Patent causes should be tried by one of the Judges of the superior courts as now in the ordinary routine of business, aided by assessors. As regards the assessors I would suggest that the convenient course would be that each party should name four or five out of whom, perhaps, the judge might select, if the parties did not agree, two or four as he thought fit. As regards the proceedings I think that the great difficulty and the great expense of our present proceedings arise from the sort of bush-fighting that there is between plaintiff and defendant neither party being compelled to disclose his case. There is no reason why the plaintiff should not be called upon to state what is the infringement of which he complains, and the Chief Justice of the Common Pleas and other learned judges have taken great pains to compel the plaintiff to point out to the defendant what is the matter complained of. According to the present practice the defendant puts in many Specifications, because of the uncertainty and the indefinite nature of the complaints which the plaintiff makes against him, and the result is enormous expense.

2063. Do you think that it would tend to lessen

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that expense if it were left to the Judge who decided the case to call upon the assessors to assist him to come to a decision?—I think it would. That is a matter which has also been taken up by the Social Science Association, and the British Association. The report which was agreed on recommended that all cases in which experts were necessary the rule should be that they should be tried by a judge, with the assistance of experts, and not by a jury, except in cases where the Judge at chambers or other competent person should be of opinion that there were in the case matters of fact, as distinguished from matters of opinion involving matters of science, which required the assistance of a jury. I can see no reason why the plaintiff and defendant should not be required to condescend upon their cases with so much particularity that there really would not be much to try, so far as ascertaining the facts, with regard to the question in dispute.

2064. I believe there was a strong feeling in the different committees appointed by the British Association in favour of the principle that all cases of infringement should be left to the decision of the Judge, with the assistance of two or three assessors?—Yes; I think the feeling was very strong in favour of that, except among those who thought that a separate court might be established for granting Patents and trying Patent causes. There is a great deal to be said in favour of that plan, but on the whole I think it is decidedly objectionable; and one of the grounds peculiarly objectionable is this, you would then depend upon a single Judge whose views would be known; he would go in a sort of groove, it would be known what witnesses were acceptable to him, and who influenced him, and that would be productive of the most serious consequences; whereas now parties can select their own court, and we know how the law has grown up by reasonable conflict in the different courts in the trial of cases. And I think there is another objection which to my mind is equally serious. Connected with the trial of the mere question of infringement or novelty, you have a great many other matters, such as questions of title, and questions of licence, and questions of estoppel, difficult legal questions, and therefore such a special court (as has been suggested) could not in a satisfactory manner dispose of the whole cause.

2065. (*Mr. Grove.*) Do not you think it would be desirable if there were no special court that there should be some rota? Have you not heard of complaints that the plaintiff has an unfair advantage in having the choice of his court, while the defendant has no choice but must go whither the plaintiff takes him, so that if the plaintiff rightly or wrongly thinks one Judge is more inclined to Patentees than another, he brings the defendant into that court?—That is perfectly true, and it may be a positive advantage; the Patentee is entitled to something, and I think that that is a benefit to which he is entitled. The plaintiff has now the power in all cases where any questions of property are involved of selecting his court, and if a Patent is property, why should not the plaintiff be allowed to select the court to try the question regarding that species of property as well as the right to an estate? The same objection might be made in all cases.

2066. There is this difference, that in cases about the right to an estate every lawsuit involves a very different set of questions, so that a plaintiff cannot very well tell what a particular judge may think of his particular case; but Patent cases, to use your own expression, run very much in a groove; may not the inventor, by having his choice of his tribunal, select the tribunal which might be supposed to lean to the view that the plaintiff is necessarily an inventor?—Perhaps so; the instance I gave is not quite a case in point, but there are plenty of instances in which the views of the Judge are known.

2067. (*Chairman.*) Is there any other point upon which you wish to make any further observations?—I may add with respect to compulsory licences, that I really look upon compulsory licences as a remedy for

what appears to be the only objection to the system of Patents, namely that you have Patents used for obstruction. A great deal has been said about the obstruction of Patents, I do not admit it, but assuming such a thing, the remedy is the power to compel patentees to grant licences. The very fact of that power existing would work its own remedy. Knowing that licences could be demanded patentees would not stand out; and it would be equally beneficial to patentees and to the public.

2068. Who would you propose should decide the value of the Patent?—First of all I presume that the power existing, the parties would come together, but if they did not, I think the best persons would be the special Commissioners or examiners, from whom there should be an appeal to the Privy Council.

2069. (*Mr. Waddington.*) You consider that the settling of the issues before the trial comes on would be almost as valuable as the improvement in the tribunal itself?—It would be invaluable.

2070. You conceive that the mode now adopted of bringing the parties before a Judge at chambers is not sufficiently stringent?—The present legislation as it is carried out is almost useless. I feel ashamed of the sort of summonses that are taken out and the difficulty there is in obtaining any good result under them. The whole system wants altering. I would suggest that some person should be appointed, in the nature of a master or special Commissioner assisted perhaps by scientific examiners; the plaintiff might be required on summons to state particularly the infringement complained of, and the defendant might be required to state particularly what were his objections to the Patent, pointing out all the passages in the books, and in fact stating his case very much on paper in the first instance.

2071. Would you propose that this person should act as a sort of arbitrator, having the parties before him and ultimately settling the issues between them after full inquiry?—Yes, subject to an appeal to the court in which the action was pending.

2072. (*Mr. Waddington.*) Following the system followed in the Scotch courts?—Yes, it would be an approximation to it.

2073. (*Mr. Grove.*) Has the system of the Scotch courts tended at all to shorten the time of trials?—That is the objection we are met with, but it is hardly a sufficient answer, because Patent causes may be regarded as special cases. Looking at the fact that nine out of ten Patent causes resolve themselves into a special case upon written documents so soon as the facts and the meaning of terms are understood, I do not see why something in the nature of a special case should not be settled before going to trial.

2074. If we could have the whole of the case on both sides fully stated no doubt there would be an advantage, but you have two persons strongly interested in not doing so. Is it not the fact that every year Patent cases have been longer and have involved more complex inquiries?—The real reason of that appears to me to be the inadequacy of the tribunal to deal with them, namely the Judge at chambers. It is impossible for the Judge at chambers with the multiplicity of business before him to deal with such cases properly.

2075. (*Mr. Waddington.*) The defendant is not acquainted with what the plaintiff's case really is till the plaintiff's counsel has opened his case?—No, and sometimes not till long after the cause has been opened, because the thing shapes itself very often in the course of the proceedings.

2076. You think that a preliminary inquiry, before the parties came into court, would very much simplify the proceedings?—No doubt of it. It is quite out of the question that Judges at chambers can deal with such questions; they have no time for it; they are subjects which require to be dealt with specially.

2077. (*Mr. Grove.*) You have referred to the numerous Specifications which are put in by the defendant, and you may possibly have remarked the number of particulars of breaches put in by the plaintiff, how would you avoid that; would you tell

the defendant that he shall not put in more than three or four Specifications in his notice of objection?—No; but the necessity of the defendant putting in so many arises from the way in which the plaintiff shapes his case. If, as has been done in some cases, the plaintiff were compelled to show his machine to the defendant, and were to say, I complain of such and such things as infringements of so and so, the case would then be made much less complex.

2078. Perhaps you may remember a case in which the plaintiff, when so called upon, pointed out the whole of the machine and said at each part, step by step, "That is what I complain of," so that the defendant knew less after the examination than he did before?—There may be cases of that sort, but that there may be difficulty in applying the system is no reason why its application should not be attempted.

2079. Would you say to the plaintiff you shall only point out a certain number of things. How would you prevent him pointing out 50 things, or the defendant giving 50 Specifications, and relying upon two when the case came to trial?—The remedy for that is costs. If the plaintiff points out 50 things and upon the trial only relies upon two, he raises a suspicion of unfair dealing with the case, and that

would be a very proper case in which he should pay heavy costs.

2080. (*Lord Overstone*.) When an ordinary case comes before you you endeavour to eliminate all the unimportant considerations and bring forward the prominent considerations, you would apply the same principle and take the same action in the case of the preliminary arbitration, with a view to preparing the proceedings before going before the Judge?—Yes. I have long felt that a good deal might be done in that way towards simplifying the proceedings. In some cases you might fail to accomplish your object, but by the adoption of such a plan a great deal of good would be done in many cases. I know in many cases the parties have gone into Court, knowing nothing of each other's cases; and if you look at the fact that in nine cases out of ten it is nothing more than settling a special case for the Court, or the construction of Specifications I do not see why that should not be done by the parties in a regular and straightforward manner.

2081. In cases where you failed to accomplish your object no great evil would arise?—We should be no worse off than we are.

Adjourned.

Monday, 20th June 1864.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
Vice-Chancellor SIR W. PAGE WOOD.
SIR HUGH CAIRNS, M.P.
HORATIO WADDINGTON, Esq.

W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.
W. E. FORSTER, Esq., M.P.
WILLIAM FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

His Grace the DUKE OF SOMERSET and Rear-Admiral ROBERT SPENCER ROBINSON examined.

2082. (*Chairman, to the Duke of Somerset*.) I understand that your Grace appears on behalf of the Admiralty for the purpose of stating the effects upon that department, of the working of the present system of Patent Law?—Yes, I appear to bring under the notice of this Commission the great inconvenience to the Admiralty of the present state of the law.

2083. Will you kindly inform us in what you conceive that inconvenience to consist?—The inconvenience consists in the apparent facility with which persons can obtain Patents covering a very large number of different inventions under one Patent. For instance, there is a Patent which one gentleman obtained some years ago, in building ships for a combination of wood and iron. Now it is almost impossible to build ships in these days without a combination of wood and iron. Therefore a Patent of that kind, where it is wide-spread, as it is in this case, brings us continually under difficulties with this Patentee. Whenever we apply wood and iron he is watching to see whether or not his Patent is invaded, and he complains and says, that different improvements which we have made without any notion of his Patent have been infringements of his Patent rights.

2084. Am I to understand you to say that his Patent is in the general terms which you have stated, namely, that it is for a combination of wood and iron?—He has taken the Patent in very general terms. I have not the exact terms here. I do not know whether the Comptroller of the Navy, Admiral Robinson, has the exact terms of "Feathers' Patent."

(*Admiral Robinson*.) I have quite enough to give the Commission an idea of it.

2085. (*Mr. Waddington*.) "A combination of wood and iron," I suppose, is the title?

(*Duke of Somerset*.) It is under very general terms. He also took out a Patent for the lining or padding of ships, so as to render them impervious to shot. Now a Patent taken out in those vague terms of course interferes with any improvements which we are endeavouring to make in that direction. Another gentleman has

taken out a Patent for all improvements of animal fibre, to prevent the jar and concussion caused by shot striking against iron plates, and to fasten round the screw-bolts. From this and from other Patents to which I could refer, I gather that there are a number of people watching the progress which is going on, and always running beforehand and getting a Patent for what they think may possibly be done afterwards.

2086. (*Mr. Fairbairn*.) And that by the application of certain materials, either in combination, or otherwise?—Yes. Of course in a Department like the Admiralty, and particularly in the present day, when we are continually anxious to make improvements, and obliged to make a variety of experiments, these innumerable Patents are a source of great inconvenience, and it is very difficult to say how to deal with them. For instance, as probably the Commissioners are aware, we had a long lawsuit with Mr. Clare for constructing iron ships; he said that was an infringement of his Patent. It puts the Department to an immense amount of trouble; they have to collect evidence, and their time is taken up in preparing it. The Admiralty have the expense of an action at law, and if they gain their cause, the moment they gain their cause the Patentee declares that he has not a farthing, and the public have to bear the expense of what is in reality an imposition upon them. Now there are a great many Patents of that sort which have been taken out. There are various processes for preserving iron. Persons run and take out a Patent for what they think is going to be done in that way. There are a great many in the case of iron ships. I think that when the "Warrior" was built there were five or six persons who all said that their Patents were infringed, though I believe that, when the "Warrior" was designed, none of their Patents were known to the designer, and they had never been used. Even in some of our trials of targets, we are told again, that if we put iron and wood in a particular way in a target we are interfering with certain Patents. In fact it is almost

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Esq., F.R.S.

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Rear-Adm.
R. S. Robinson.

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Rear-Adm.
R. S. Robinson.*

20 June 1864.

impossible to move anywhere without being told that we are interfering with the Patent right of some gentleman, and the inconvenience to the Department of course is enormous in the time which it takes up. On many occasions we have been recommended by the lawyers rather to pay the money than to enter into a lawsuit to defend ourselves. In the case of the screw-propellers the Admiralty in 1851 purchased five different Patents, hoping that they should have peace by that means, but they had all sorts of claims afterwards; they were told that they had infringed different Patents, and they have had to pay for other Patents since.

2087. (*Chairman.*) Is it not an inconvenience inherent in the very nature of Patent rights, that if A. and B. hit independently upon the same invention, and if B. hits upon it a little later than A., A. having the advantage of priority, has the power of excluding B. from the enjoyment of that which B. himself may have discovered?—I think that if A. invents something, he should make something, and produce it. If he takes out a Patent for doing something, and then stands still for 8 or 10 years and does nothing, it seems to me to be a course which, instead of making the Patent Law encourage inventions, renders it a great discouragement to inventions.

2088. Then your complaint, as I understand, is two-fold, partly at the too large and vague terms in which these Patents are taken out, and partly also that a man, after having taken out a Patent, does not give to the public, or to anyone else, the advantage of that which he supposes himself to have discovered, but at the same time has the power to prevent any one else doing the thing without paying him for it?—Yes, those are two very great objections to the present system of the Patent Law. The Patents seem to be given too vaguely and too widely; and again, as has been said, when a person has a Patent he makes no use of it himself, but only watches till he can catch somebody else in his hook. For instance, it was but a few days ago that an ingenious plan was proposed to us for moving the shot along a ship at a certain height from the deck. It was said that you could thereby bring the shot to the different guns more easily, and as we are now using very heavy shot, this was an object. But we are immediately told that there is a Patent for that purpose, that Messrs. Laird and Cowper have taken out a Patent for a sort of railway suspended by deck-beams, and that if you move anything along by a railway hanging from above, that is an infringement of their Patent. Now that seems a simple thing, and it is a thing which, as it appears to me, ought not to have had a Patent granted to it, because there is no great invention in it. Fortunately, the plan which was suggested to us was to move the shot by means of uprights from the deck, and that I believe would have been found to defeat the Patent, and therefore we might have gone on.

2089. (*Mr. Fairbairn.*) Was that to elevate the shot?—Yes, and to run it along to the different guns.

2090. You proposed to do that upon a carriage, I apprehend, like a railway suspended from the upper beam?—Yes, that was the suggestion. It was in consequence of the innumerable quantity of these cases, which the Comptroller of the Navy can go into far better than I can, that I was anxious to bring this subject before the Commission; and this year, as I had not heard from the Commission upon the subject, I wrote a letter to the Lord Chancellor, which I, perhaps, had better read, because it will state the case quite as shortly as I could state it myself.

His Grace read the same, as follows:

“Admiralty, 17th March 1864.

“Dear Lord Westbury.—The claims of Patentees construct so seriously the works of this Department, that it will become necessary for the Government to consider whether the laws connected with Patents should be amended, or whether the form in which Patents are now granted could be improved.

“On this subject I wish to ask your advice. So far as regards any Patent article, the form of Patent provides that the Crown may make use of any patented article on payment of such a sum to the Patentee as the officer who administers the Department may consider fair and reasonable.

“This form of Patent meets the requirements of the public service, in cases where a patented article is used. There are, however, numerous cases where there is no patented article for sale, but where a claim is raised for the use of some patented mode of construction.

“In shipbuilding these claims are repeatedly raised. A Patent has been obtained, but never worked; it lies dormant for years, until the inventor perceives some opportunity to set up a claim, trusting that the words of his Specification may be ample enough or vague enough to serve his purpose.

“In some such cases we have been advised rather to pay a sum of money than incur the expense of contesting the validity of the Patent. In other cases we have contested the Patent. Mr. Clare, for instance, under a petition of right, claimed many thousand pounds. We incurred large expense, and although the Crown gained a verdict with costs, Mr. Clare was a pauper, and the Crown had to pay.

“Now, what I wish is, that the form of the Patent should be altered. I desire that a warrant should be issued under the Royal Sign Manual directing the Law Officers, in granting Letters Patent, to reserve to the Crown the full use of any Patent, on payment of such sum as shall be deemed fair and reasonable by the head of the Department using the same. The Crown has, I presume, power to direct that any restriction may be inserted in a Patent, and the restriction here proposed seems reasonable, as I am certain it is necessary for the public service.

“Would you consider this matter, and give me your opinion.

“Believe me, &c.
(Signed) “SOMERSET.”

Having written that letter to the Lord Chancellor, I took the opportunity of seeing him shortly afterwards and he told me that he would have been quite ready to consider it, and to give me advice, but that as the subject was under the consideration of a Commission, he thought that it would be improper for him at the present time to do anything, and that he would wait till the report of the Commission had been made. That was what made me anxious that this matter should be again brought under the notice of this Commission.

2091. (*Chairman.*) With regard to the special remedy which you propose, of reserving an exceptional powers to the Crown to use Patents, how would it work in cases where the public departments may be said to be competing against private manufacturers, as, for instance, in the manufacture of arms?—First of all I do not think that the public departments are likely at the present day to get any great advantage over individuals. I think that generally there is a jealousy of the public departments, and juries certainly take every care of the Patentee. I think that in other cases the House of Commons takes sufficient care of inventors. I do not think that they would suffer from it. But if it was thought that the Department itself had an interest, and might be biassed in defeating the fair claims of an inventor, the decision might in case of doubt be referred to the Treasury, or some superior department, which could not be supposed to have any other interest than the general interest of the public.

2092. I presume that a department may always be considered as having an interest in keeping down its own estimates?—Yes; and therefore in cases of doubt it might be better to let it be done by the Treasury. In the case of patented articles the head of the Department has now the power, as I understand, under 15 & 16 Vict., to take a patented article and to pay only such sum as is considered

reasonable by the Department. I understand that to be the law as regards any patented article, and I want to extend that to where the mode of doing something is patented without an article being produced.

2093. (*Lord Overstone.*) You wish to apply the same principle to patented processes as is actually now applied by the law to patented machines?—Yes; that would effect the object which I have in view.

2094. Would the difficulty suggested be in any degree remedied by an arrangement, if it was thought necessary, by which the competing parties under this supposition should be entitled to use the patented article upon the same terms as those upon which the Government had taken a right of user?—As regards the army and the navy a great many of these Patents are not intended to be used except by a public department; in fact, they are precautions to prevent the public getting advantages without paying the individual something.

2095. In most of the cases to which your Grace refers, the rights which are patented are really so patented for the purpose of being ready to strike a bargain with the public interests, and not generally speaking with any view to use by private individuals?—Quite so.

2096. (*Chairman.*) Would you apply your suggestion to all cases of inventions of such a character that they could only be used by a Government. Take, for instance, the manufacture of guns, it may be assumed as certain that an individual would not desire to manufacture guns largely on his own account, but he might desire to patent an invention with a view to sell it to some foreign state, or even to manufacture guns on behalf of some foreign state?—Yes; but I think that if he was paid what was considered reasonable by the Department, or at any rate what was considered reasonable by the Department with a reference to the Treasury, every thing would be done which would reasonably be considered as justice to the individual.

2097. (*Mr. Fairbairn.*) Would there not be some difficulty in assessing the exact sum which should be paid for a Patent?—I suppose there would.

2098. Should that be done by the law officers of the Crown, or in what way would you recommend that it should be effected? Would you leave it to the Department, as in the case of machinery?—I think that the Department might first say what it considered fair and reasonable. I think that if there was an appeal against it, it might be referred to the Treasury, who could either decide themselves, or, if it was a very complicated case, could appoint one or two qualified persons to pronounce an opinion upon it.

2099. They might, for instance, call in assessors competent to determine?—Quite so. Then there are cases of disputed claims by rival inventors, which are embarrassing to a department; we do not know who has a claim to a Patent, and sometimes when we buy a Patent of one person we are told that we have done a great injustice to another. I remember that when we paid for the Griffith Patent screw, which was cutting off a small portion of the screw, I had repeated letters from Sir Howard Douglas, telling me that it was a great injustice to him; that he had invented all this, and that his fame was diminished, and that his rights were taken from him by the Admiralty, who had most unjustly and unfairly paid Mr. Griffith. Those cases are continually arising, and of course they are very inconvenient for a department: they not only take up a great deal of time, but they very often prevent some very desirable process being gone on with. I should propose that, in those cases of disputed claims, the Department might be allowed to pay into Court what they considered a fair and reasonable sum, and that when the question was decided between the rival inventors, the successful party should get it, but that the Department should not have any trouble on that account.

2100. (*Mr. Waddington.*) You would propose that the Crown, who grants the Patent, should have the

right of using it, even though the party refused to grant a licence?—Yes.

2101. That is placing him somewhat in the same position as if he were compelled to grant a licence at a certain price?—Yes, and I think that it might be obtained by a form of Letters Patent, which, in my opinion, it is quite within the power of the Crown to make.

2102. (*Lord Overstone.*) And you anticipate that the effect of such a form so introduced into the Patent would in reality be to put down a great number of these vague Patents, which would be desirable on general principles, as well as on the ground of their interfering with the public interests through the Admiralty?—I should think so. When I was at Woolwich, for instance, I saw the different shot which were to be used against iron plates; they showed me different forms of shot which had been made in the arsenal a great many years ago, but all of which had since then been patented by different persons, who claimed these forms of shot under their Patents.

2103. (*Mr. Fairbairn.*) A Patent was taken out not only for the form of shot, but also for the composition of the material composing that shot?—Yes.

2104. And I know from experience upon the Iron Plate Committee, that scarcely a subject came before us but what had a Patent, some of them being exceedingly frivolous?—Yes; there are some details of these things which perhaps Admiral Robinson can explain to the Commission better than I can.

2105. (*Chairman, to Admiral Robinson.*) You have heard the evidence which has been given by the First Lord of the Admiralty. Are you prepared to confirm by particular instances in greater detail what has been stated?—I think that I can confirm all that his Grace has stated. I may be allowed to call the attention of the Commission to this book; it is an abridgment of all the Patents which have any relation to inventions in ship-building, from the year 1608 to the year 1860, it has not been completed since 1860 owing to the great number of Patents for different things which have since been granted. But looking to the construction of ships alone, and disregarding every other point, there are three or four remarkable instances of the immense number of Patents which have been granted, and of the trouble which must naturally be imposed upon a department to know whether any proposal which is brought before it may be applied without infringing a Patent or not. For iron combined with wood on the hulls of ships alone there are 31 Patents. For iron-cased ships there are 33 Patents. For shields and armour plates applied to men-of-war there are 52 Patents. Other matters are much in the same proportion. I will only quote one more instance, namely, Patents for improving the speed of ships by forms, there are 65 Patents for that alone. But in the article of rudders, and in the article of steam machinery, and everything connected with the construction of ships, the number of Patents is quite as great as those which I have read to the Commission. This matter alone, perhaps, would show a *prima facie* case of the inconvenience, at any rate, to which a department which has to deal with inventions relative to the construction of ships is put.

2106. (*Lord Overstone.*) Suppose that any improvement in any of the departments of ship-building, such for instance as the form of ships, was suggested to the Admiralty, could they by any reasonable investigation beforehand satisfy themselves whether they were or were not infringing Patents?—The number of Patents which relate to the forms of ships being so great, and being drawn up in the loose and vague way in which Patents are drawn up, I think that it would be exceedingly difficult to come to a conclusion whether something which you did might not violate some claim in a Patent as it now stands.

2107. So that in the existing state of the law a proposed improvement on the part of the Admiralty in the construction or form of ships is liable to be embarrassed by a variety of Patents, and the Admiralty

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has no sufficient means of ascertaining beforehand whether the proposed improvement can be safely made or not?—No; with this understanding that the words “sufficient means” refer to a very great loss of time and very great uncertainty attending the investigation.

2108. Loss of time would not invalidate the sufficiency of the means, but uncertainty in the result of the inquiry, of course, would?—Yes.

2109. (*Chairman.*) Is it a fact that you can hardly make any improvement in the construction of ships, or of guns, or in the working of vessels, or in other parts of the business of your Department, without finding that you are, so to speak, running your head against somebody’s Patent?—I think that we are stopped at every turn.

2110. (*Mr. Grove.*) Have you any table or index of the number of times in which the Admiralty have been compelled to apply to their legal advisers to know whether Patents really stood in their way or not?—I can give you a few instances of late years, in which it has been necessary for the Admiralty to resort to the opinion of their solicitor. I commence with the year 1861, which was the year in which I came into the Comptroller’s office, and from that time to this I can give you a list of the cases. There have been 12 upon the construction of ships since 1861.

The witness delivered in the following paper :

“ABSTRACT OF CORRESPONDENCE relative to the use, alleged infringement, &c., of the following Patents :

Mr. Bush -	-	Construction of ships.
Mr. J. Clare -	-	Construction of ships.
Mr. P. Drake -	-	Construction of ships.
Mr. A. Lamb -	-	Construction of ships.
Mr. W. Rae -	-	Keels, stern posts, &c.
Mr. Thomas and Col. De Bathe.	-	Mr. G. Clarke’s target.
Mr. Truss -	-	{ Animal fibre.
	-	{ Armour plates.
Mr. Beslay -	-	Preservation of iron.
Capt. Wheatley -	-	Position of guns in ships.
M. De Lapparent -	-	Carbonizing timber.
Commander Warren -	-	Bow rudder.
Mr. Feathers -	-	Construction of ships.
Messrs. Woodcroft, Smith, Ericsson, Lowe, Blaxland, and Mr. Currie.	-	Purchase of Patents for screw propellers.
Capt. Carpenter -	-	Screw propeller.
Capt. Trewitt -	-	Disconnecting apparatus.
Mr. Griffith -	-	Screw propeller.
Mr. J. O. Taylor -	-	Screw propeller.
W. Ireland -	-	Cupola.
Messrs. Laird and Cowper.	-	Trimming coals in ships.
-	-	Distilling apparatus in “Defence.”

2111. (*Mr. Waddington.*) In those cases the Patentees claimed compensation for infringement?—Yes, and it was necessary for the Admiralty to have recourse to their solicitor, and to enter into a very long correspondence.

2112. (*Mr. Fairbairn.*) It is very possible that you may infringe upon these Patents without knowing it?—Constantly. The inconvenience which the Duke of Somerset has mentioned resulting from Patents applied to ship-building is so very great that it is scarcely possible to build a ship, being a combination of wood and iron (and you always have some of each in a ship), without treading upon somebody’s Patent, and I am entirely of opinion that the Patents are drawn up for that especial purpose, without any idea of their being practically applied for the benefit of the public, but only that the Patentee may lie in wait for a colourable evasion of his Patent taking place, and come upon a public department. The Patentees do not look after private individuals, but they think (for reasons which are obvious) that a public department is fair game.

2113. (*Mr. Waddington.*) And their remedy has been considerably facilitated by a late Act as to a petition of right?—Yes, because before that I understand there was no remedy at all.

2114. (*Mr. Hindmarch.*) In one of the cases to which you have referred, namely, the construction of a ship partly of wood and partly of iron, you allude, I think, to Feather’s Patent?—Yes, that is one of them.

2115. That Patent, if I remember rightly, was taken for constructing the upper part of a ship’s side of iron and the lower part of wood?—That is an outline of the Patent.

2116. And that Patent you are alleged to have infringed, because, in constructing one of the ships of the navy, you laid about one-third of the upper side of iron and the rest of wood?—Yes.

2117. There was no sort of indication in the Patent that a claim of that description could be made. If I remember rightly, the Patentee also claimed a mode of connecting the iron with the wood, which you did not use, but nevertheless he said that you introduced it?—Yes, the Patentee claimed a mode of putting this iron on the top of the wood essentially different from the mode adopted in the building of the “Enterprise.”

2118. So that the only method in which the Government vessel resembled the Patentee’s vessel was that a piece of the one was made of iron and another piece of wood, and so was the other?—Yes.

2119. (*Mr. Fairbairn.*) I suppose that you have experienced that it is exceedingly difficult for the Government to introduce any improvements without treading on the heels of some Patent or other, either directly or indirectly?—Very difficult.

2120. If you could get clear of a number of Patents which are not valid at all, it would relieve the Government very considerably?—Very much.

2121. (*Mr. Hindmarch.*) Have you inquired whether foreign countries acquire the right to use English inventions for warlike purposes; for instance, without paying anything for patent right in their countries to the Patentees of those inventions?—I do not know what the practice of foreign countries is.

2122. If a Patentee has a right to make a valid claim upon the Government, he has a right to say, “You shall not use the invention,” it is quite clear that he cannot have the one right without the other. A Patentee might say to the Government, “You shall not use a gun of this shape at all.” Have you made any inquiry with respect to foreign governments using, for instance, Sir William Armstrong’s gun, or anything of that sort. Could the French use it without paying any patent right to anybody?—I cannot answer that question, not knowing the state of the law.

2123. (*Lord Overstone.*) I suppose that it is quite clear that the publication of the Specification of a patented article of war necessarily communicates that secret immediately to any foreign government?—Not necessarily, because the terms of the Specification are so vague, and so much is often reserved, especially in the making of a machine, which a gun may be called, as to the mode in which the material shall be put together, that the Specification does not always enable you to know it.

2124. Is it not the very object and principle of a Specification that it should set forth the discovery, so that in case of the sudden death of the inventor, the public would be in possession of the means of availing themselves of his invention?—Probably that is the intention, but I think Patents are often conducted in a very different way.

2125. Do not you think that that is a great defect with regard to the Specification, and that it does not answer the purpose which it was intended to answer, of putting the public so effectually in possession of the secret that they could themselves work it whenever the obstruction of the Letters Patent was removed?—So far as I can understand it I think that there is very great laxity in the way in which Specifications are drawn up—laxity both ways.

2126. (*Mr. Hindmarch.*) In those cases do you see any difficulty in the way of a Patentee correctly and efficiently describing the nature of his invention?—No, and I think that no Patent should be granted where

the invention was not correctly and satisfactorily described.

2127. (*Lord Overstone.*) Have a public department of the Government never thought of disputing a Patent which was raised against them, on the ground that the Specification was not so distinct as it ought to be, and that it involved an indistinctness which invalidated the Patent?—Certainly, that was so in the case of “*Clare v. the Queen.*” The Government disputed Mr. Clare’s claim upon that very ground.

2128. Did they succeed?—Yes, but in spite of the verdict being for the Crown there have since been continued applications to the Admiralty, and continued petitions addressed to both Houses of Parliament by Mr. Clare, and a great deal of indiscriminate abuse, which of course does not matter much.

2129. (*Mr. Waddington.*) And I suppose that a considerable sum of money was spent in the contest?—Very great.

2130. (*Mr. Fairbairn.*) Do you think that a closer investigation into the question, whether a Patent should be granted at all, would be serviceable in order that Patents which are of no use should not be granted?—I dare say it might, but a Specification of a Patent is really a case for a very sharp legal mind; there are so many ways in which it can be turned, that I do not think that any layman is very well qualified to give an opinion as to how a Specification should be drawn. I only speak generally upon the fact, that public departments, at any rate the Admiralty, are excessively impeded in their operations by the present Patent Law, and that an amendment, for the purpose of procuring everything which they ought to have, is very much needed.

2131. (*Mr. Grove.*) If I understood his Grace rightly what he proposes would be met by a few words in the form of the Patent. The present words of the Letters Patent are these: “If the Patentee, his executors, &c.” “shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the Officers or Commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms, as shall be settled for that purpose, by the said Officers or Commissioners requiring the same; that then” the Patent shall be void. If the words “or grant licences for the use of the said invention” were put in, those ten words would meet the requirements?—They would meet the requirements in case of the invention of machines, or in a case where an invention consisted of an apparatus to be employed,—but I do not think that those words would be sufficient to meet the case of construction.

2132. (*Mr. Waddington.*) In order to protect you in every case from the individual, might you not put in the words “licence for the use of his Patent”?—Yes; that would secure it.

2133. (*Lord Overstone.*) But in the case of Patents which we may describe as official Patents it would hardly be reasonable or just that, because the progressive efforts of the Admiralty had brought out something to which those vague words might apply, the Patentee should receive remuneration?—I think that it would not.

2134. (*Mr. Hindmarch.*) A clause in the Patent is that the party is to supply the articles to the Government; have you ever acted upon that?—Yes; the Admiralty have acted upon it when they could get the articles supplied reasonably. The case of M. Lapparent’s Patent is one, and Dr. Normandy’s Patent for distilling fresh water is another.

2135. (*Mr. Waddington.*) There is a section in the present Act enabling Her Majesty to grant Patents subject to any conditions which she may think proper?—Yes.

2136. It would require no alteration in the law, but merely an expression of opinion that the form of the Patent should be altered?—The Crown has the power to do it.

2137. (*Lord Overstone, to the Duke of Somerset.*) I think that the Commission understand that it is the emphatic opinion of your Grace, confirmed by the Comptroller of the Admiralty, that the existing state of the Patent Law is found practically to oppose serious obstacles to the efforts which the Admiralty is now called upon to make to improve the naval constructions of the country?—I think that it does; that it interposes a serious obstruction to every sort of progress which the Admiralty wish to make in the interior fittings of ships, or in the ships themselves.

2138. And your Grace thinks that, in duty to the public interests, it is incumbent upon this Commission to devise some means of abating that evil?—I think that it is most important that this Commission should carefully consider the best way of remedying that evil.

2139. And you are inclined to think that some clause introduced into the Patent, as now granted by the Crown, and which the Crown has the power of introducing, might be framed so as greatly to meet the difficulties which your Grace has suggested?—I think so. Of course I do not go into the question whether the Crown has or has not the absolute right to use any Patent. Assuming that it is desirable to give inventors a Patent right even as against the Crown, I think that it ought to be limited in the manner indicated by the terms in which the Patent is granted.

2140. And it is the impression both of your Grace and of the Comptroller of the Navy, that many of these Patents are granted not for inventions which are really calculated to be useful to the public, but solely as giving powers to Patentees which they may hereafter use or hope to use for their own interest as against the interest of a public department?—I think that that is clearly obvious from the terms in which their Patents are often taken.

2141. (*Mr. Waddington.*) With reference to the state of existing Patents, would it not be almost necessary to have some retrospective measure, because if the change were only made in the case of Patents issued after the report of this Commission, you would be left exposed to all your present difficulty?—I think that it would be absolutely necessary with regard to past Patents that some powers should be given to us, because we do not know what Patents are now lying dormant; we never move without knocking against several, and therefore I think that it would be absolutely necessary.

2142. For that purpose it would be necessary to have recourse to the legislature?—I think so.

2143. (*Sir W. P. Wood.*) I think your Grace mentioned that you had actually seen in the dockyard some shots which had been merely experimentally made, but which had since been made the subject of a Patent?—Yes; I alluded to what I saw in the arsenal at Woolwich. I was speaking upon the subject of Patents to the authorities there, and I was then told that Patents had latterly been taken out for different flat-headed shot, and differently shaped shot, and they showed me in a room in the arsenal a number of shots of these kinds, which had been made experimentally a great many years ago.

2144. So that they still could be made subject of a Patent, as they never had been generally used, and you might in fact be prevented from using your own shot?—I suppose they might be.

2145. (*Sir H. Cairns.*) Does it occur to you that the embarrassment arising from Patents affects the Admiralty in any way different from the way in which it affects any large ship-builder of the country, always of course remembering that the Admiralty are the largest ship-builders in the country?—I think so, because it is not worth the while of Patentees to interfere with a ship-builder; they do not apparently meddle with a ship-builder; but the moment that the Admiralty does anything, they think that there is an opportunity for compensation, because if the Patent is not good enough for a Court of Law, it may be good enough for the House of Commons.

The Duke of Somerset and Rear-Adm. R. S. Robinson.

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*The Duke of
Somerset and
Rear-Adm.
S. Robinson.*

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2146. I do not know whether your Grace has in your recollection any instance in which an application to the House of Commons has succeeded?—I think that there have been cases (I do not know for certain that there have been a great many) where compensation has been applied for. Of course that is a great embarrassment to a department who have to get up the case, and to go into it with great care, and very often it is a question of great detail which it is very difficult to bring before the House, so that they will understand the details, and they may or may not take up the idea that the Admiralty have committed an act of injustice.

2147. (*Mr. Waddington.*) I believe that I am right in saying that very often individuals make claims upon a Government department which they would never think of making upon private individuals?—Very much so. The Government is quite helpless in these cases compared with an individual.

2148. (*Lord Overstone.*) Of course in prosecuting every endeavour to improve both the building of ships and the armour of ships, perfect freedom of action on the part of the persons applying themselves to it is absolutely necessary?—I think so.

2149. And these vague and undefined Patent rights oppose a serious obstruction to the action of that freedom of action?—Yes, I think that they obstruct the Department in every way. The Comptroller of the Navy can mention a case. It was considered very desirable, in building iron transports, as on account of the thinness of the coat of iron, if the ship struck against any ground the vessel might be lost, to have a second iron coat inside. That seems a very obvious thing—it was like a person putting on a great coat—and I have no more doubt that it was not infringing a Patent than if a person found himself cold and said, "I will have another coat over this;" but the moment we tried to put another iron lining inside the iron frame of the ship, we were told that that was the subject of a Patent, and we were impeded and delay was occasioned.

2150. (*Mr. Fairbairn.*) There is no novelty in that, because it has been done long ago. The "Great Eastern" has a double lining; the interior is perfectly water-tight?

(*Admiral Robinson.*) Yes; nevertheless we had correspondence and difficulty on that subject, but it was overcome.

2151. I apprehend that it would be a great relief to the Department of the Admiralty, and also to the War Office, provided they could get quit of a number of these Patents which cause such an annoyance, by reason of hangers-on claiming compensation for things which have been frequently done before?—Yes.

2152. (*Sir Hugh Cairns, to the Duke of Somerset.*) Referring to the case to which your Grace alluded just now, if that mode of putting one coat of iron upon another had been used before, the Patent would of course have been invalid; but assuming that it had not been done before, and was novel, does not it occur to your Grace that it might have in it the element of a very great improvement and a very important alteration in the practice of ship-building: that in place of having a single plank, whether of wood or of iron, an inch thick, you have three in layers one over the other, each one-third of an inch in thickness, but forming with the three a very much stronger and better protection than the single one would do?—I cannot say that it seems to me to amount to an invention. I think that it is one of those things which hardly amount to inventions. If half an inch of iron is not enough for the outside of a ship, and you think it better to put another half inch, you may put it either alongside the other or at a little distance. In one case you are told that you have infringed a Patent, in the other case perhaps you have not; but I think that none of those little progresses ought to be called inventions, or ought to be allowed a Patent.

2153. Then I understand your Grace's view, which if I may be allowed to say so, is very intelligible and distinct, to be this, that care should be

taken that a Patent should not be granted where the invention is not novel; also that a Patent should not be granted for that which, calling itself an invention, really ought not to be so esteemed; but beyond that is there anything peculiar in the case of the Admiralty, or any Government department compared with the case of any other manufacturer? I can understand your saying, as any manufacturer who came before us would say, "Do not allow worthless Patents, if possible, to get afloat, and do not allow Patents for inventions which are old to get afloat;" but would not the view of a Government department in that respect be just the same as the view of every manufacturer in the kingdom?—No; I think not, because a Government department has a number of processes which only apply to purposes of war, and to public purposes for the defence of the country. I think that those purposes ought to have special protection on the part of the public. I think that they are different from any invention made by a private manufacturer.

2154. That is to say that the Sovereign as representing the public at the same time that she confers a general monopoly for a certain beneficial end should reserve an exception in favour of the public as represented in a Government department?—I think so.

2155. (*Lord Overstone.*) Is not the view this, that the multiplicity of Patents, and especially of vague and indefinite Patents necessarily prevents the progress of invention either by private individuals or by public bodies, and that source of evil when it applies to a public body like the Navy is so great and so grievous that it over-rides the supposed benefit to the community of such Patent rights?—I think so; the great object of Patent rights to the community, as I understand, is to reward men for applying their ingenuity to progress in arts and sciences; but if instead of that every little change is to be patented, instead of advancing improvement and progress, tends very much to impede and defeat it.

2156. (*Mr. Forster.*) Would your Grace then propose to introduce into the Patent Law any exemption in favour of the Crown?—In the terms of the Patent to be granted I would propose that the Crown should reserve to itself the right of using all processes upon a payment to be made such as the Department may consider fair, or such as the Department may consider fair with the sanction of the Treasury, which would bring in a second department.

2157. Are we to understand that your Grace would propose that on account of the public services for which that Patent is used, the Crown should be put in a different position from other manufacturers by being their own buyers of the Patent, fixing their own price for it?—Yes; I understand that the Crown is so situated as regards any article.

2158. (*Sir H. Cairns.*) As I understand, it would be your Grace's view that the clause in the Patent should be expressed in terms about which there could be no dispute, namely, terms which would enable the Government to take the use of the Patent, whether in the shape of articles supplied, or in the exercise of the process upon reasonable terms and prices to be fixed "by the said Officers or Commissioners requiring 'the same'?"—Yes. As regards the Admiralty that would meet the future, but we should also require something to meet the past cases.

2159. (*Mr. Waddington.*) I understand your Grace to say that the number of inventions already is so very great, which are described in a loose way, and which are not brought into practice, that you would not be safe if there was merely a prospective alteration without something to guard you against the Patents which already exist being started up?—I think so.

2160. (*Mr. Fairbairn.*) The evil arises from the number of Patents, and not from the number of inventions?—Quite so.

2161. (*Mr. Forster.*) Then what your Grace wants is that you should have the power of obtaining at your own terms the Patent right?—Yes, at our own terms,

or at our own terms subject only to the approval of some department of the Government, such as the Treasury, which could not be supposed to have any departmental interest in the matter. I suggest that, because I do not wish to take from inventors any merit which they really have for a *bonâ fide* invention.

2162. (*Mr. Fairbairn.*) I think your Grace mentioned that you would have no objection to the price given to the Patentee being fixed by some department, and that if not thoroughly acquainted with the subject it could be done by assessors?—Yes, by assessors who could fairly adjudicate.

2163. (*Sir H. Cairns.*) Upon the same principle as you deal with railways, by arbitration?—Yes.

2164. (*Lord Overstone.*) I apprehend that your Grace means that the same restriction which is placed upon the Patent, by which the power is given to the Government departments to obtain a machine actually invented, would be satisfactory if applied to powers patented, but which have not been developed into an actual machine?—Yes.

2165. (*Sir W. P. Wood.*) Coupled with the power of paying into Court where there is a conflict as to the payment?—Yes.

General JOHN HENRY LEFROY examined.

2171. (*Lord Overstone.*) I believe that you appear before this Commission on behalf of the War Office to explain to the Commissioners various difficulties and inconveniences which the War Office experience, arising out of the grant of Patents, for instance, for munitions of war?—I have not received any instruction to that effect, but merely to appear before you.

2172. The Commissioners have been informed that Lord de Grey, on the part of the War Office, feels that his Department is seriously inconvenienced by various difficulties arising out of the grant of Letters Patent, and which might interfere with the progress of improvements in that Department. Do you know that to be the case?—I know that pretensions are often set up by individuals which, if they were well founded and sustainable, would have the effect of impeding the public service very much. I am unable to say that the actual result has often been so.

2173. Then you are not able to state to this Commission that the War Office has experienced practically any serious inconvenience from the existing state of the law?—No; I do not think that I am competent to state that it has experienced serious inconvenience. My own experience only goes to the pretensions of individuals to interfere with certain measures which the Government thought itself entitled to carry out, in the use of its material of war, but that actual inconvenience has resulted from these pretensions I cannot state, because in very many instances we did not do the thing which the pretensions were calculated to prevent our doing.

2174. (*Mr. Waddington.*) You did not abandon it on account of the pretensions?—No; but because it was not worth doing.

2175. (*Mr. Fairbairn.*) In your Department have you sustained much inconvenience or obstruction with regard to Patents being taken out for guns and projectiles or missiles of any description?—Some time ago, for example, we proposed to make certain experiments by firing guns and rockets under water. A gentleman told us that he had taken out a Patent for firing guns and rockets under water, and in effect that we were not at liberty to make that use of them. I cannot say that the public service experienced any very great inconvenience from that, because I do not know that we should ever make any extensive use of guns or rockets in this way, nor did we in that case listen to his objection,—we did fire both under water experimentally, notwithstanding the objection.

2176. Supposing that it was essential for the public service that you should fire rockets under water, would this Patentee bring an action against the Government?—So he threatened.

2166. (*Mr. Grove.*) Then upon the evidence which your Grace has brought forward, in a very large number of cases the Government would refuse to pay anything because, in fact, the inventions would be worthless or old in the larger number of cases?—Yes.

2167. (*Mr. Waddington.*) It would be subject to a refusal in the case of Patents which you were advised were bad in law?—Yes; but that would only be ascertained by going to law.

2168. (*Lord Overstone.*) Does your Grace consider that the case, on the part of the Admiralty which you wished to submit to this Commission, has been fully explained to us?—Yes; I think that the general purport of what I wished to say has been fully brought before the Commission.

2169. Is there any further observation of any kind bearing upon this subject which you would wish to address to the Commissioners?—No; I do not think that there is anything more as regards the Admiralty which I wish to say.

2170. (*To Admiral Robinson.*) Have you anything to add to what has been already stated?—I do not think that I have anything to add to the evidence which has been already given.

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2177. (*Mr. Forster.*) Have you ever been prevented from making a similar experiment to that by such a threat of a Patentee?—We have been obliged to delay making experiments until inquiries could be made as to what the rights of the Patentee were. As, for example, some time ago we proposed to fire gunpowder in a compressed state; a gentleman said that he had patented the right of compressing gunpowder, and that we must fire our gunpowder in a granulated state, and not in a compressed state, and we were obliged to have a delay of some time before we could ascertain that.

2178. What length of time?—A few weeks. We got rid of the claim by compressing our powder without the use of any adhesive cement, which the Patentee employed. It was held to constitute a substantial difference. But had the employment of adhesive matter been necessary, Government would have found itself debarred by this Patent from the use of gunpowder in form which is sometimes of value where great power is required in a small compass, and which suggested itself wholly independently of this Patent the moment an occasion arose.

2179. (*Lord Overstone.*) Do you consider that those interruptions to which you have alluded, and of which you have given one or two examples, have formed any substantial impediment to the progressive improvement of those materials of war which are under the charge of the War Office?—I am not able to say that they have.

2180. (*Sir H. Cairns.*) Do you know whether the War Office, in dealing with the Patentees who make patented articles, have been in the habit of fixing the price of the article to be supplied to them under a clause which has been called to our attention in the existing Letters Patent, which enables a department like the War Office to require that it shall be supplied for Her Majesty's use with the patented articles, "at and upon such reasonable prices and terms as shall be settled for that purpose by the officers or Commissioners requiring the same." Supposing that the War Office want a supply of certain rockets which are patented, and which you know to be patented, and that the Patentee demands a price which you think unreasonable for them, have you been in the habit of resorting to this clause, which is found in all Letters Patent, and which in a case of that sort enables a Government department to require the article to be supplied, they fixing a price?—The business of supply does not come under my cognizance. I am not aware of the War Office having taken any advantage of this clause.

2181. (*Mr. Waddington.*) How long have you

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been in your present situation?—I have been in my present situation only a few months, but I have been connected with the examination of inventions on the part of the War Office for nearly 10 years, and have therefore seen most of the offers and proposals for the adoption of new material.

2182. Do you know of any instance in which a claim of a large sum of money in the shape of damages has been made against your office for the infringement of a Patent?—I am under the impression that Captain Blakeley demanded a very large sum of money on one occasion for the alleged infringement of his Patent in the manufacture of the Armstrong guns. But I perhaps may be permitted to explain that the War Office is a very large machine, and that the work goes through a great many channels, and one gets hold of it in a fragmentary manner.

2183. Then you cannot give the history of that case?—Not without examining the papers.

2184. (*Lord Overstone.*) Has it come within your knowledge that cases have occurred where the War Office, in prosecuting various experiments and attempts to improve machinery under their charge, have been suddenly obstructed by the setting up of Patent rights supposed to exist under vague and indefinite Patents, and of which the War Office had previously no suspicion?—A gentleman, after the introduction of the Armstrong gun, claimed the exclusive privilege of employing the system of breech-loading, which consisted in passing the shot in at the end of the bore, and having a wedge or stopper of any sort to close the bore when the shot had entered it. That objection was not sustained, but as far as that objection went, it would have prevented our going on with the manufacture of the Armstrong guns.

2185. Was that a Patent couched in very vague and indefinite language?—Very indefinite. The terms are “we claim the use of a clear passage extending from end to end of the cannon in combination with a vertical, horizontal, or other slot made across the bore or passage, and in which slot are fitted filling pieces with inclined surfaces whereby the passage through the cannon may be opened or closed when required.”

2186. (*Sir W. P. Wood.*) Were you obliged to have recourse to legal advice when you were forming your opinion upon that point?—I am not in a position to know that. The Ordnance Select Committee reports, and the War Office take what steps they think fit.

2187. (*Sir H. Cairns.*) The War Office has a solicitor, and I suppose that in the natural course of things it would go to him?—Yes.

2188. (*Mr. Waddington.*) Sir William Armstrong, I think, has not taken out Patents?—Yes he has, but he resigned his Patents to the Government, and the Government is or was the holder of his Patents.

2189. (*Mr. Fairbairn.*) Did the case which you mentioned with respect to the Armstrong gun take place after the War Office had made an agreement with Sir William Armstrong?—Yes.

2190. And the other party set up a claim?—Yes, Messrs. Church and Goddard claimed one of the features of the Armstrong gun under their Patent, the feature itself being a very general one, and one which is to be met with in breech-loading cannon of very early date; one dated 1619 in the Committee's museum is almost exactly what they patented in 1854.

2191. How did you get quit of that claim?—There my information ceases; but I apprehend that the case was too palpable to require any ceremony.

2192. I think you say that with regard to compressed powder, a claim was set up against you?—Yes.

2193. And that it created delays and obstructions to your proceedings?—Yes.

2194. Compressed powder has been in operation at the powder works at Waltham for upwards of 50 years?—Powder cake.

2195. I mean that?—But that is in a different state; that is a stage through which the powder goes

in the process of manufacture. I speak of compressing the powder again after it has been granulated. An instance occurs to me of an objection made on the part of a company to our firing flat-headed shot, upon the ground that we had a right to fire round shot, but that they had patented flat-fronted shot; this was easily evaded by making them slightly concave, but I think that no Patent should debar the Crown from varying the form or material of cannon shot at pleasure. These things arise, I am unable to say that they lead to an obstruction, because in ninety-nine cases perhaps out of every hundred we do not pay attention to the objection, but there is every intention on the part of the individuals to obstruct us and to extort money if they can.

2196. (*Sir W. P. Wood.*) Are you liable to the same inconvenience as far as it goes with reference to carriages, harness, and other implements which you use?—Yes; a gentleman some time ago claimed compensation, because we had introduced to a limited extent the use of elastic buffers to prevent the shock of the recoil in the guns; he pretended to have patented the means of stopping the recoil in that manner.

2197. (*Lord Overstone.*) The Government I think has recently become a manufacturer of its own materials to a much greater extent than it used to be?—Yes.

2198. Do you think that that change on the part of the War Office creates any further or increased difficulty with regard to Patent rights?—As far as my information goes the superintendents of manufactories in the Royal arsenal do not find themselves much inconvenienced by Patent rights; whether it is that they offer reasonable or liberal terms to Patentees I cannot say, but they do not find inconvenience from that source.

2199. (*Sir W. P. Wood.*) What is the office which you fill?—I am President of the Ordnance Select Committee.

2200. (*Lord Overstone.*) Did not the Ordnance Select Committee in a report of theirs introduce the statement that “they would venture to suggest a general enactment that no Patent right shall be of force to prevent the Crown from manufacturing or repairing warlike material in its own departments, or from employing for such purposes the materials, forms, processes, and machinery found most suitable, leaving the Crown in the same position as any other purchaser in respect to articles not repaired or manufactured in Royal establishments?—That is extracted from one of the reports of the Ordnance Select Committee.

2201. Does that report meet with your sanction and concurrence?—It does.

2202. Do you think then that there is a sufficient ground for reserving out of every Patent granted a right to the Crown to use the patented article without remuneration to the Patentee?—Yes, to this extent that the remuneration to the Patentee should in my opinion depend wholly on the bounty of the Crown, and be proportioned by reference to the amount of advantage which the public service has derived from it, which it is quite impossible in many cases to determine beforehand. Instances have occurred in which large prices have been paid for things which after all have been found perfectly valueless. Generally speaking inventions and improvements in warlike material are little matters of detail, which enter as a component part into some other and larger thing. Very often we have a choice of details. Perhaps out of six which are available we may adopt a particular one, in which some individual may have a right of property. If that one had not been adopted we could still have done the thing in another way; and after all that is a small detail in many instances, in the result which is arrived at: it is a small detail contributing only towards some general result which was not in the view of the Patentee when he took out the Patent. I can quote a recent case in which a gentleman laid claim to a particular mode of rifling; he asserted a right of property in a particular mode of rifling which he had

not produced, and which had been produced without the slightest communication with him, or the slightest knowledge or idea on our part that he had anything to do with it. It turned out that a particular curvature was given to the edge of one of the grooves which practically represented the curvature which he had given to his grooves, and he chose upon the strength of that to claim the whole. We could have given 50 other curves equally well, and it was of no value whatsoever.

2203. (*Sir H. Cairns.*) Would not your proposition have this effect, that as regards certain inventions, it would be a prohibition against having any Patent at all. Take, for example, an invention with reference to the munitions of war. No person in the country requires munitions of war, or ought to require munitions of war, except the Government,—besides, of course, the question of foreign exportation,—but with regard to consumption in this country, no person requires, or ought to require, munitions of war except the Government. If you say that for any invention with reference to a munition of war, the Government, which is virtually the only customer for it, shall be supplied gratuitously, except so far as it chooses, out of bounty, to make compensation to the person supplying it, is not that equivalent to saying that there shall be no reward to that inventor at all, and that he shall not take out a Patent?—I do not go so far as to say that the Government shall be supplied gratuitously, if it finds it to its interest to resort to a contract, the contract should be made subject to the rights of the Patentee.

2204. But that if the Government manufactures for itself, it shall do so gratuitously?—That it shall have the right to use any machinery, and take advantage of any warlike material in its own manufactories, without remuneration to the inventor, though I do not mean to say by that that the inventor should not get remuneration, but I think that it should turn entirely upon the bounty of the Crown as to what should be awarded to him, and not be necessarily proportioned to the scale of the Government manufactory, or any fanciful estimate of the public importance of the improvement.

2205. If the Government had two courses open, one to make a contract at the Patentee's price, and the other to manufacture for itself without any price at all, it of course would manufacture for itself, and would not the result be that the Patentee would be simply left dependent upon the bounty of the Crown?—There are very few articles in large use which the Government exclusively manufactures. I can hardly name any.

2206. That is as things at present are, but in the altered state of things do you think that that would apply?—I think that the jealousy against Government manufactures would always apply against its supplying itself exclusively from one source.

2207. (*Mr. Forster.*) Do you not consider that, supposing you obtained this power, you would have an advantage given to your manufactory over the private manufacturer, who also supply the Government, and do you not think that that would increase the jealousy?—I think it desirable and reasonable for the Government not to resign that advantage. The Government is resigning an advantage in granting the Patent, and I think that it is a reasonable stipulation for the Government to make that it shall not be impeded in its own works and manufactures by any rights under the Patent.

2208. (*Lord Overstone.*) Your view I understand to be this, that the Government in granting a Patent right, grants a right to the Patentee over all other subjects of the realm, because such an exclusive right would be beneficial to the public interests, but that the public interests with regard to the transactions of the Government require that they should be exempted from such obligation?—Yes; that is very nearly my view of the matter.

2209. (*Mr. Grove.*) Then what encouragement would there be except the chance of bounty to those

inventors whose inventions dealt entirely in munitions of war; there would be no encouragement, for instance, except the possibility of getting something in the way of a gratuitous bounty from the Government?—I do not think that they need to be encouraged. I do not think that the application of invention to those subjects needs the slightest stimulus or encouragement, but on the contrary I was about to say that it is rampant.

2210. (*Sir H. Cairns.*) Perhaps you have not observed the other direction so much, but might it not apply to inventions of all kinds at the present day that a stimulus is no longer needed, but that invention as you say is rampant?—I think so.

2211. (*Mr. Forster.*) We had from Sir William Armstrong himself precisely the evidence which you have given, that he found in his own manufactory that he was constantly interfered with by the existence of Patents of which he knew very little, and which prevented him from trying experiments and going on with the inventions which he otherwise would have done. Do you not think that if you had this power given you either by buying the Patent at no price at all, or of buying it at your own price, it would put you in a more favourable position with your manufactory than you are put in at this moment?—As regards Sir William Armstrong personally the cost of the production of the material of war connected with his system of artillery, has never been enhanced by any Patent of his. He resigned all right to his Patents, and the Government has never that I am aware of paid him any royalty or in any other way.

2212. He in working his business finds that the Patent Law is a constant tax him upon?—Yes.

2213. If you were able to work your business without the Patent Law being a tax upon you, as you say it now is, would you not, in so far as you got that special exemption, be put in a favourable position as regards Sir William Armstrong?—Yes, undoubtedly. If a Government department can make a thing under a Patent without paying a royalty to the inventor, it must be deemed so far an advantage over those people who must pay a royalty.

2214. (*Sir W. P. Wood.*) You think that the defence of the country is a sufficient advantage to allow of that distinction?—Yes; and I think that a slight sacrifice should be inflicted to get rid of the inconveniences, and the correspondence, and so on, arising from these unfounded claims.

2215. (*Mr. Hindmarch.*) Supposing that the Crown had a right given to them by law so as to insure their making these articles, would there be any difficulty in ascertaining by some process the amount of remuneration to be paid to a Patentee who conferred such a benefit?—The expectations of Patentees are very extravagant, generally speaking, and prior to trial it is very difficult to determine at all what is the value of an invention. As an example, a gentleman some time ago made a great improvement in cooking apparatus, and he assessed his own reward at a large portion of the whole saving in fuel which might be effected by the application of this improvement to an enormous extent upon the whole military consumption of the Crown, which would have come to many thousands of pounds. Such an improvement should not be assessed by the value to the Crown, but by what it cost the originator in intellectual labour or previous experiment, and its importance in a large sense.

2216. Supposing anything to insure the Crown a right to make and use a gun of a new character, the Crown having got that right by law, would there be any difficulty in ascertaining the amount of reward which the person was entitled to, so as to award it to him by some process of law which might be adopted?—The War Office is constantly in the habit of consulting the Ordnance Select Committee as to the proper sums to be given for certain inventions. I can only say that we do practically find extreme difficulty in getting any guide whatever as to what is to be considered the value of an invention, and scarcely

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ever succeed in satisfying the parties, however liberal we may conceive we are.

2217. (*Mr. Forster.*) Then are you of opinion that an inventor ought in the case of the Crown to be paid according to the labour which he has bestowed upon the invention, and the ingenuity which he has shown in it?—Yes, and also to a moderate extent for the benefit which the public derives from it; but the Crown being an enormous consumer of certain articles, and very often having the choice whether they will adopt A.'s invention or B.'s invention, I think it is very reasonable that if they finally adopt the invention of A., he shall have his remuneration assessed on the relative rather than the absolute value of it.

2218. But of course you are aware that in the case of what is called user of Patent rights the price is fixed according to the value of the Patent between the buyer and the seller, and that the labour and skill bestowed upon it have nothing to do with it?—Yes, but ordinary customers act with a view to their own pecuniary benefit, and know very well what a thing is worth to them; the Crown is in a different position, and the pecuniary bearings of these questions are not so readily determined.

2219. (*Sir H. Cairns.*) Would you think that if there was a Patent which was sold in the market, as between buyer and seller, at a price which was quite unremunerative, having regard to the amount of labour and ingenuity and time which had been bestowed upon it, the Crown should pay a higher price than it sold for in the market, because the price for which it was sold in the market was not a fair remuneration?—No, certainly not.

2220. Your view would be that the Crown should pay a sum not exceeding what it sold for in the market, and not equal to the sum for which it sold in the market, unless that sum was what the Crown thought fair, having regard to the labour and skill bestowed upon it?—My general opinion is, that if the Government, in its own view of the public interest, thinks it advantageous to make use wholly or in part of a particular invention, and if after a short time it is found that public economy and advantage are derived from the use of that invention, I should then make an equitable, reasonable, and liberal compensation to the party by whose invention the matter was brought into operation; but that party should not be permitted to say, "You shall not use this invention until you pay me such terms."

2221. (*Sir W. P. Wood.*) Do you not in times of public emergency require to manufacture a very large stock of articles in a very short time?—Very frequently.

2222. Is it desirable that in such cases as those you should be delayed by having to make inquiries into Patent rights, and assess compensation?—Certainly not.

2223. (*Mr. Fairbairn.*) I think you said that if the Government manufactured the same article at the arsenal they should pay nothing. It appears to me that that would be exceedingly unfair if it was a valuable article?—Supposing that a man invents an improved rifling machine; if the Government wish to buy those machines of that man, they must pay him whatever he chooses to demand, but if they make use of the machines without applying to him, I think that he should have no power to step in to prevent them, but that they should afterwards say, "We award this sum as a fair sum for the advantage we have derived from the use of your invention." I think that the man should have no right beforehand to interfere with the Government making warlike material in the best and cheapest manner that they can, and using anybody's Patent that they choose. This applies especially to experimental inquiries antecedent to the adoption of processes or inventions, which are now much impeded.

2224. (*Mr. Waddington.*) Would it meet your views supposing the Government had that right of using any invention which they thought proper, if the remuneration to be given was left to the arbitra-

tion of indifferent persons instead of leaving it to a department of the Government?—Yes; I should be quite satisfied with that.

2225. (*Lord Overstone.*) Is it your principle that in consideration of the fact that the Government want many warlike materials, they should not be subject to the same obligations as private individuals?—Yes.

2226. You rest your case upon the ground that the Government is a manufacturer of those warlike materials which are essential to the safety of the country?—Yes.

2227. You do not go so far as to say that the existence of these Patent rights against the Government embarrass the Government in their efforts to improve their machinery?—The term "embarrass" is a somewhat vague one. I should say that there is no department concerned in the matter who would not say that they have been a good deal embarrassed by having troublesome correspondence and a great deal of extra labour, but as to having prevented the Government from doing what they wanted to do, I do not think that any public inconvenience of that sort has arisen.

2228. (*Mr. Fairbairn.*) Supposing that a rifle or a rocket or anything of that kind was made upon an entirely new principle, I suppose you would consider that the inventor was entitled to some remuneration where the same machine as that which manufactured the present rifle or rocket would apply to the new invention. Under those circumstances it is not the machine, but the invention itself for which you would pay the inventor?—I do not quite follow your question.

2229. Supposing that there is a new principle of rocket, and that you have machines for manufacturing that rocket you may have three or four machines for that purpose, but the novelty is in the rocket and not in the machine. In that case the inventor of the new system of rocket would, I suppose, be entitled to remuneration?—You may illustrate that question of rockets by a case now before us, namely, a rocket proposed by a gentleman who has given great attention to rockets. I think that there is nothing in his Patent which should prevent the Government from making that rocket in any quantity which they like, but that if they do so, and if that rocket is issued by tens of thousands, and if it is proved to be better morally and equitably, to give him a compensation for it, but in my opinion he should have no power to interfere with their using or making the rocket when they like. The value of an invention is generally speaking a thing which is to be determined by subsequent trial, and very often it may turn out that there has been a mistake, and that the thing has not succeeded at all, which was the case with the rockets he first produced.

2230. (*Sir H. Cairns.*) Do you think that it would be an equitable thing to make the term of a Patent for munitions of war shorter in duration than that of any other Patent. For example, other Patentees having the term of 14 years, would you think it equitable that for munitions of war the term should be 10 or 12 years only?—No; I do not see why that should be the case, because it would prevent the Patentee from deriving advantages from any other customer than the Government. Now there is scarcely any munition of war to be named of which the Government has the exclusive user.

2231. Would not what you propose be exactly the same thing as saying to all such Patentees, "There is in an ordinary case protection and all monopoly for 14 years; but you shall have it only for 12 years, because the subject of the Patent is a munition of war." Does not your proposal come to the same thing as saying "With regard to munitions of war of which the Government may be not the only but the largest customer, you shall be dealt with on a plan different from all other Patentees; you shall be subject to an obligation of selling your Patents at a price either to be fixed

"by the Government, or to be fixed by arbitration." Would not many Patentees say that that was equivalent to taking off from the value of the monopoly than the rockets previously in use, they are bound, to the extent of two or three years?—That would be the case to some slight extent, but I think practically not very much so.

2232. (*Lord Overstone*.) Is it not your objection that these charges against the Government for the use of inventions with regard to munitions of war tend to check the flow of the application which is given to the improvement of those munitions of war?—They tend very much to check it, and to impede that free inquiry and experiment by the responsible officers of the War Department which is so desirable for the sake of the public service.

2233. (*Mr. Forster*.) In the case of any inventions or improvements which are made in the War Office establishments, and their manufactories, do you make use of the Patent Law yourselves, do you take out Patents?—It was proposed in a single instance that the Secretary of State should take out a Patent to prevent a Patent being taken out by anybody else, and being used against him in a little matter which we thought original and of importance, but it was not taken out.

2234. (*Mr. Grove*.) Under what power, statutable or otherwise, do you dispose of bounties in the shape of rewards to inventors. Is it solely discretionary, or under what power do the War Department, for instance, give the large sums of money which they think are proper rewards to inventors for their inventions?—It is entirely in the discretion of the Secretary of State. In the last few years there has been a small sum provided in the annual estimates; previously to that the sanction of the Treasury was obtained in every instance.

2235. (*Sir H. Cairns*.) Do you allow persons who are working for you in your Departments, if they come upon an invention, to take out a Patent themselves?—There is no existing regulation against it, and it has been done in many instances.

2236. You are aware, I suppose, that most of the Railway Companies who have large manufactories have a standing law that all inventions by their work-

people shall escheat, as it were, to the company?—The Commissioners will probably allow me to read a short passage from a report of the Ordnance Select Committee on this subject in answer. What I am now about to read originated in these circumstances:—An officer employed in the manufacture of small arms devised and patented a small improvement. He afterwards died, and his widow claimed a large sum of money for the Patent, in consequence of this small improvement having been adopted, although no such claim was made by him at the time; the War Office desired the Committee to express an opinion with regard to the inconveniences arising from that state of things. The passage in the report of the Committee is as follows:—"With respect to the patenting of inventions or improvements of manufacture by servants of the Crown, who have been indebted for their opportunities of devising such inventions or improvements to employment in connexion with manufacture, supply, or expenditure, the Committee conceive that the first remedy is a moral one, the displeasure of the Secretary of State, proceeding to the length of dismissal from civil employment, if necessary, when such Patents are applied for without his permission; and that all suitable opportunities are taken of affirming the principle that it is contrary to the honourable understanding subsisting between the Secretary of State and those employed under him, that officers or others should patent anything against the interests of the public. The second remedy might be to make all such Patents invalid on proof that the inventor or party beneficially interested was at the date of the registration in the employment of the War Office or other military department, and neglected to obtain the sanction of the Secretary of State to his application to the Commissioners of Patents." That was the recommendation of the Committee.

2237. Has anything been done upon that recommendation?—Not that I am aware of; no legislation has been based upon it.

2238. (*Mr. Forster*.) Was a royalty paid in the case to which you have alluded?—A sum of 1,500*l.* was paid to the representative of the Patentee.

Adjourned.

Friday, 24th June 1864.

PRESENT :

The Right Hon. LORD STANLEY, M.P.
The Right Hon. LORD OVERSTONE.
VICE-CHANCELLOR SIR W. PAGE WOOD.
HORATIO WADDINGTON, Esq.

W. R. GROVE, Esq., Q.C.
W. M. HINDMARCH, Esq., Q.C.
WILLIAM FAIRBAIRN, Esq.

THE RIGHT HON. LORD STANLEY IN THE CHAIR.

WILLIAM CARPMAEL, Esq., further examined.

2239. (*Chairman*.) You appear here, I think, on behalf of the War Department?—At the request of the War Department.

2240. You are the author of a book on Patent Law?—Yes.

2241. You are, therefore, familiar with the proviso which was introduced early in the present century with a view of ensuring the public service being supplied with patented inventions at reasonable prices?—Yes.

2242. Probably you are able to say how far that proviso has answered its purpose?—So far as the Crown has required supply, in certain departments, it has answered its purpose fully; but some few years back it was found wanting in this respect, that only officers of certain departments were provided for in the proviso, the Master General of the Ordnance and the Lord High Admiral were the two parties originally provided for. A case arose which did not come within either of those departments, and no pro-

viso was in the Patent. At that time the proviso was only put into a very few Patents, namely, those which on the face of them showed that they applied to the ordnance or the navy, it was afterwards determined to alter the proviso both as to its extent and also as to the wording of it. It was then worded so as to supply Her Majesty's service generally, and the officer administering each department was to judge of the propriety of the price. No case has ever arisen, so far as I am informed, of a dispute as to the supply between the Patentee and the Crown's officers, and it has been attended with great success. In the particular case to which I have alluded, some preserved vegetables, I think, were wanted for the Crimea, and there was no proviso in the Patent enabling the Victualling Department to ask for a supply. The proviso is now inserted in all Patents.

2243. Am I to understand you to say that by that proviso the departments of the Crown have the use of every patented invention upon a payment, the

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amount of which is fixed by the department itself?—To a supply of the patented article, but not the right of user. That is the distinction.

2244. Who fixes the price?—It has heretofore been done by agreement. The officers have approved of the prices proposed, and have ordered the articles at those prices.

2245. If I understand rightly, everything turns upon the question of price; because an article may be virtually made useless by a prohibitory price being put upon it, if that is left to the discretion of the seller?—In that case the officers administering the department have, according to the proviso, the fullest power of saying what the party shall receive.

2246. That is the question which I wish to put to you, namely, whether the discretion rests in the last resort with the officers of the department, or whether they are bound to refer it to the arbitration of some impartial person?—I consider that the officers administering the department have the fullest power to decide that question.

2247. That is to say, that they may purchase any patented article, giving what price for it they think fit?—Yes; but still as they are public officers acting as trustees between the Crown, and the Patentee, for the public, I cannot imagine that a case would arise where the head of a department would wish to have articles at an unreasonable price. The usual mode has been that the Patentee has sold to the Crown at the same price as to other parties, or at any other price agreed upon between the officers and the Patentee.

2248. Do you find that buyers and sellers always agree as to what is a reasonable price?—They have done so in these matters up to the present time. I do not know an instance to the contrary.

2249. But when you say, as I understood you to say just now, that there has been no dispute between the department and the Patentee, does not it come to this, that no dispute can possibly arise, inasmuch as the department have the power of settling the matter in whatever manner they think fit?—That may give an inducement to agreement; but, generally speaking, I think that when an article is purchased by the public as well as by the Crown, it has a market price for all parties. That market price is reduced very constantly to private purchasers (and I see no reason why it should not be so to the Crown also), when the purchaser agrees to take large quantities of the article.

2250. (Lord Overstone.) Are you aware of any strongly expressed cases of dissatisfaction and complaint on the part of the Patentee at the prices awarded to him for the articles thus taken by force of law?—No; I have known many inventions used without licence from the Patentee by the Crown's officers, and many disputes arising in consequence; but compensation has been given to the Patentee for the use of his invention. The proviso only provides for the supply of the article; but the Government have now become in their departments very large manufacturers, and therefore they do not in some cases want to purchase the article; but they want to make it.

2251. As I understand the case it is this, that the law has hitherto given a power to the Government departments which it does not give to an ordinary member of the public, namely, the power of taking the articles which they require from the Patentee at prices to be named by the Government?—Quite so.

2252. But the Government departments having now become manufacturers as well as consumers of articles, they want an extension of the same power, and the same permission to them in their new capacity?—That I understand to be the fact, and I think that it is unobjectionable so far as my experience goes of the past working of these matters.

2253. In the transactions between the Patentee and the Government departments as consumers, fixing of their own will and judgment the price which they think proper to pay to the Patentee, is it within your knowledge that that arrangement has given rise to

serious and strongly expressed discontent and dissatisfaction on the part of the seller of the article?—I have never heard of it. The only complaint which I have ever known has been where a Government department has used an invention.

2254. (Mr. Grove.) Will you mention the complaints which you have heard where the Government has used an invention?—There are many cases where the Government in their manufacturing departments have used inventions which the parties having Patents have complained of as being their patented inventions, and they have then asked the Government for remuneration for Patent rights by reason of that user.

2255. (Lord Overstone.) Can you say how the Government have dealt with those claimants?—In some cases the claims have been enormous and exorbitant. In those cases the Government have usually taken the opinion of their own officers, as to the benefit which they have derived, and also the opinion of myself and others, with reference to the validity of the Patent, and what would be a reasonable remuneration to the Patentee as a Patent rent for the user by the Crown.

2256. Can you state any particular case of excessive demand on the part of a Patentee for an invention used by the Government?—In the late case of the Queen at the suit of Clare, 500,000*l.* was asked by the Patentee for a supposed use of his invention on board six of Her Majesty's ships. Assuming that he was right, and that the Government had used his invention, I think that that would have been an enormous sum for any merit there was in his invention, supposing there had been any. But as it turned out what he asked the remuneration for was not his Patent.

2257. (Chairman.) I understand you to propose that the power vested in the Crown to purchase Patent inventions at their own price should be extended to the purchase of the right to use any Patent whatever?—My feeling is, that the Crown's officers in the manufacturing departments ought to have the fullest power to use for the benefit of the Crown and the public every patented invention. In my opinion it should be reserved to the Crown that its officers and contractors, for the benefit of the public, should have the right of using all inventions. I think that the spirit of the proviso as it now stands should be carried out by leaving it to the heads of departments to assess what is a fair Patent rent to be paid for the use of the invention when they have ascertained the value of it to the public.

2258. (Mr. Fairbairn.) To whom would you entrust that power?—To the heads of departments, who, I assume, would do it by themselves or by their assessors.

2259. Would it not be rather dangerous that the Government should have the power to dictate their own price to the manufacturer of an article which they consume?—I think not, because I cannot imagine a public officer placed in that high position doing a wrong act. He would do it in the face of the public, and the public opinion would be too strong to admit of his doing so with impunity.

2260. The Government do not always deal with the Patentee, but they deal with the manufacturer?—That is when they ask for a supply of articles. In that respect, speaking from 40 years' experience, I have never heard a complaint on a manufacturer's behalf that the Crown officers had not paid him fully for the benefit derived from the patented invention.

2261. (Mr. Waddington.) The principle for which you contend has been recognized by the legislature?—Yes, ever since 1800; and in practice it has answered most fully, and I have no doubt that justice has been fully done.

2262. (Mr. Hindmarch.) Then would you carry it out so far, that supposing that an invention which was used in constructing a ship, or any other proceeding by the Government, should turn out to be frivolous or of no value, it would be a part of the system to give no remuneration?—Certainly. I as-

sume that a gentleman at the head of a department, standing high before the public, having a case of that kind brought before him, would call before him the officers of the department who were working the manufacture, and, if necessary, would call others, and would hear the Patentee, and those whom he brought before him, and would decide to the best of his ability what was a fair remuneration. The kind of evidence which the Patentee would bring before him would be, "I receive for such and such privileges from A, B, C, and D, manufacturers of the said article, such and such a remuneration," or "such and such a Patent rent." That would be a part of the ingredients upon which the head of the department would have to decide.

2263. Would you put it upon this footing, that if the invention, whatever it was, had conferred a benefit upon the public, the Patentee ought to be remunerated?—That is my feeling.

2264. And if no benefit had been conferred, there would be no remuneration?—That is my feeling also.

2265. (*Sir W. P. Wood.*) I suppose you are aware that the clause requiring the patented article to be supplied to the Crown upon the terms which have been alluded to, has been inserted in the Patent upon the mere right of the Crown to impose this condition, without any Act of Parliament?—Yes.

2266. You propose that the Crown in future should further protect the right of the public by inserting a clause as to user upon the same inherent power of the Crown to impose conditions?—Yes; I entertain no doubt of the Crown having that power, and the law officers of the Crown, from my own experience for 40 years, have from time to time varied the provisos and conditions upon which the Letters Patent are granted. Every Warrant contains directions from the law officers to put in all such conditions, provisos, and prohibitions as they may consider just and necessary to carry out the will of the Crown.

2267. (*Mr. Hindmarch.*) And the late Patent Act reserves to the Crown all rights which it had previously?—Yes. In 1740 a special provision was put in under the direction of the Crown with reference to the Bottomry Acts; that was got rid of when the Bottomry Acts were repealed. I drew the clauses for the, then Sir John Copley, who was at that time Attorney-General, for the alteration with regard to them. In one Patent which has been granted, there is a proviso that no payment shall be made for the future supply of the patented article to the Crown, because the Crown had already paid considerable sums of money for the user.

2268. (*Mr. Fairbairn.*) How do you propose to deal with the question in the event of any difference of opinion between the Government and the Patentee?—It is to be a final judgment. I hold that the head of the department is to form a final judgment, so that there can be no appeal from it. I put it upon the public character of the individual.

2269. (*Mr. Waddington.*) If it were otherwise, it must go to some tribunal, and therefore the Crown would be in no better position than an individual?—Just so. The principle which I go upon is, that I think it for the benefit of the public that there should be no let or hindrance to the Crown using for the benefit of the public every invention which comes out, if the public service requires it.

2270. (*Lord Overstone.*) You think that the restriction as to the use of the patented article is a limitation of the boon conferred upon the inventor for good and sufficient reasons, and that it is a reasonable restriction as regards those departments which act for the public interest and the safety of the country?—Yes; and I also think that it is for the benefit of the Patentee. The difficulty under which the Patentee now labours is as to whom he shall attack in the event of his thinking that his rights are infringed by the officers of the Crown. I have advised a very large number of Patentees, and I sincerely believe that they would only be too glad that a proviso should exist in the Patent, directing them where to go, and

how to ascertain to what extent they ought to be rewarded, in place of having to raise bills of rights and other proceedings against the Crown.

2271. (*Mr. Grove.*) In any other case except that of the Crown, would you recommend the Patentee to go to the person using his Patent, and paying him rent to fix the price?—Certainly not.

2272. (*Chairman.*) Does not it come in principle very much to this, that the Crown should have the use of the Patents without any payment?—No, it does not go to that. I think that it is highly desirable on behalf of the Crown, and through the Crown on behalf of the public, that every inducement should be offered to bring men of genius and of peculiar thought to introduce inventions for the benefit of the public through a public department.

2273. I understand the principle being laid down that the Crown shall have a right to use inventions without payment; and I understand the principle being laid down that the Crown shall have a right to use inventions upon payment to be decided by arbitration, or by some other form of reference to an impartial person; but I do not understand the payment which a department is bound to make, where it is entirely optional with that department, whether the payment shall be substantial or a merely nominal one. Perhaps you now see the difficulty?—I see your Lordship's difficulty, but in answer to it I say that for 60 odd years the provisos in Letters Patent have answered exceedingly well and satisfactorily, and then I say that I cannot imagine an officer at the head of a department of Her Majesty's service acting so unfairly towards a Patentee as to give a nominal or even unreasonably small sum compared with the benefit of a patented invention which he must have ascertained that the public have received through that department.

2274. (*Mr. Fairbairn.*) In fact, you would give the whole power to the Government to determine the compensation to be paid?—Yes; it being done before the public.

2275. (*Mr. Waddington.*) It being subject to public opinion, and to an application to Parliament in case of great injustice?—Yes. The public would so control it, that I have no anxiety, and I do not think that Patentees would have any anxiety, at that power being in the heads of departments.

2276. (*Mr. Fairbairn.*) In cases of infringement of a Patent by the Government to a certain extent, whether it turns out to be a good Patent or not, how would you deal with that matter under your proposal?—I say that the Government are to use it to any extent without inquiry or observation from any one, and that when they see that they are deriving benefit from the Patent, then they shall inquire what is a reasonable and satisfactory payment to be made to the parties whose invention they are using.

2277. (*Chairman.*) Then it seems to me that, as far as the law is concerned, it would be more in accordance with the principle which you lay down to strike out all mention of payment?—No, I think not.

2278. Because, if the department were greatly benefited by the process of an inventor, it would always be in their power to reward him?—I think there is a material difference in that. I think it should be the duty of the head of a department, upon finding that the department is using a patented invention, to inquire how much the public have benefited, and then to award a payment in proportion to the benefit.

2279. (*Lord Overstone.*) Your view is that the Government, like the rest of the public, should pay a proper price for whatever they use, but that in the case of the Government the decision of that price can upon the whole be more safely left in their hands than in those of any public tribunal?—That is my opinion.

2280. And in that opinion, you consider that you are fortified by your experience of the law up to the

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time to which it has now gone, having reference to the consumption of articles?—Yes.

2281. And you see no reason why the principle which has worked well in that case should work ill when extended to the use of inventions?—Certainly not.

2282. (*Mr. Waddington.*) Would it not be perfectly competent to the Crown in point of law to insert a condition that the Crown should have the use of the machines, or of the Patent, for nothing at all?—Yes, and it has been done in one instance.

2283. (*Chairman.*) Do you conceive that, under such an arrangement as you propose, there would be much willingness on the part of Patentees to bring their inventions to the notice of the Government?—I think that there would be every inducement to them to do so, and I believe that it would lead to a good feeling between Patentees and the Government departments, which does not exist at the present time. When Patentees have articles for sale they go to the Government departments, the same as any other salesman, and I never heard of an instance where there was any difference of opinion between the purchaser and the Patentee.

2284. But do you think that a salesman would be very anxious to show you or me his goods, if we might take them, paying 6*d.* for that which he might consider to be worth a guinea, and if he had no right to refuse them?—There I cannot go with your Lordship; I start with this proposition, that the Government should have the fullest power to use every invention for which Patents are granted, and that it should be a duty put upon the heads of departments to investigate whether a patented invention has been beneficial to the public through the department, and that if it has, then a reasonable compensation in the nature of a Patent rent, should be paid to the Patentee.

2285. Is there any other suggestion, which you can offer to us bearing upon this subject?—I do not remember any other. My opinion on this subject I expressed many years ago, and have done so from time to time to the different law officers of the Crown; therefore it is not an opinion hastily formed, and in addition to that, when I have been consulted by

either of the departments, and I have come in communication with them, I have appended it as part of my report, that this subject should be brought before the law officers of the Crown, in order to have it dealt with upon principle.

2286. (*Sir W. P. Wood.*) Have the cases to your knowledge been numerous in the War Department of complaints of interference with Patents in respect of improvements or inventions in those matters, which are the subject of consideration on the part of the War Department?—I have had several cases from the War Department with regard to the validity of Patents, and with regard to the proposed charges of the Patentee for the use of his invention, but there have been no difficulties in settling those cases, with the exception of the one in which the Admiralty was concerned with reference to Mr. Clare's Patent.

2287. Practically you cannot speak to any special amount of inconvenience which has hitherto occurred?—No, and I think that I should have known of it if it had arisen.

2288. (*Mr. Grove.*) In Lancaster's case there was discontent, for the Government officers appeared and opposed the prolongation of the Patent conditionally, wishing that there should be a stipulation that the War Department should have the patented articles without paying any premium, and it was not granted by the Privy Council?—There the Crown had no power of dealing with Mr. Lancaster for the use of his invention, but they had the power of dealing with him if he supplied them with guns, or articles connected therewith; therefore that was a question which ought properly to have gone to the head of the department, to have taken the responsibility under the proviso as to a fair payment for anything which the patentee supplied. I do not know the facts of that case, because it has not been before me.

2289. (*Mr. Hindmarch.*) In those cases in which you have been called upon to advise the departments, have you done so upon mechanical matters solely, and not upon chemical matters?—I have advised both as to chemical and mechanical matters, but very little has arisen with regard to chemical matters so far as my knowledge goes.

C. M. Clode,
Esq.

CHARLES M. CLODE, Esq., examined.

2290. (*Chairman.*) You are Solicitor to the War Department?—I am.

2291. We understand that objections are raised by the War Department against the present working of the Patent Law?—Difficulties arise no doubt from the present proviso having been framed at a time when the Department purchased its own supplies, and that is very seldom at present the case, the result is, that we have to deal with Patentees for the purchase of their inventions without any means of assessing what the price should be.

2292. You have no advantage, as the law at present stands, with regard to the purchase of inventions over any private purchaser?—None whatever.

2293. Therefore, it is not only a question of prices but if a Patentee chooses to refuse you a licence to use his invention, you have no power?—We are then entirely powerless; of course we make this exception with regard to the nature of the Patents to which this objection applies; they are Patents for instruments and munitions of war. The Crown has a paramount duty to defend the State, and when it places in the hands of a Patentee a monopoly of the best invention for defence the Crown to that extent abrogates its duty in favour of the Patentee. With regard to the Statute Law up to a very recent period, a Patent for an instrument or munition of war was invalid; it was rather more than invalid, Patentees were exposed to penalties. Regarding a monopoly for an instrument of war, the last Act is to the following effect, it is an Act of the 1 James 2., chapter 8, and I think that it was in force until Mr. Deacon

Hume repealed and consolidated the Customs Acts, and it was dealt with entirely as a Customs Act. The third section of the Act James 2., is to this effect: "Provided always, that if any person or persons whatsoever, bodies polittique or corporate, shall by colour of this Act or otherwise, obtaine from His Majestie, His heires or successors any letters patents, license, or grant for the sole making or importing any gunpowder, arms, ammunition, or other utensils of war, and shall putt the same in execution, or by colour thereof molest or hinder any person or persons who lawfully make any the things before mentioned in this kingdome, or shall obtaine any letters patents, licence or grant for the importing of gunpowder, arms, ammunition or other utensils of war by way of merchandize, to make profit thereof other then for the immediate furnishing of the publique stores of His Majesty, His heires and successors that then the person and persons soe offending shall incurr and sustaine the paines, penalties, and forfeitures contained and provided in the statute of provision and præmunire made in the 16th yeare of the raigne of king Richard the Second, and be disabled to hold any office or employment under His Majestie, His heires and successors, and all and every such letters, licence, patent and grant, and every of them for the sole making and importing the said commodities shall be void to all intents and purposes as if the same had never beene had or made, any clause of *non obstante* or other provision or covenant to the contrary thereof in any wise notwithstanding."

2294. (*Mr. Waddington.*) That was to prevent the Crown from granting these monopolies?—Quite so, being against public policy.

2295. (*Mr. Grove.*) Have you the clause of the repealing statute?—The Act is 6 Geo. 4. c. 105. "An Act to repeal the several Laws relating to the Customs," and the sections are 26 and 444.

2296. (*Sir W. P. Wood.*) Did it simply repeal the whole act?—Yes, without any reference to the provisions of this section.

2297. That act having Customs clauses in it?—They deal with it entirely as a Customs Act.

(Witness handed in copies of Statutes B.).

2298. (*Chairman.*) Passing from the question of former legislation, we understand that the matter at present under discussion is whether a power shall be given to the War Department to purchase inventions in the same manner as they now purchase patented articles?—Yes. At present it stands on "reasonable price." I have taken some pains to ascertain the fact, and I find that we have never been able to control the "reasonable price" of any Patentee. We come to his own terms. The Director of Contracts will confirm my statement. I asked him, "In your experience have you ever assessed the terms or price which a Patentee has charged you for his patented article." He said, "No; we have certainly refused to take it if we thought it excessive." In the evidence before the Ordnance Committee, 1863, it appeared that Sir William Armstrong's contract was to supply the Government at "a fair and reasonable price," those were the words of it, and in the event of difference, that question was to be determined by the law officer for the time being (p. 488 of Report).

2299. That is not by the head of the department which is itself interested?—It is not. That was by Sir William Armstrong's own agreement. With regard to the "reasonable price," to illustrate the difficulty of arriving at what is a reasonable price, if you look at the supply as taken by what Sir William Armstrong justly considered to be a reasonable price when the invention was first promulgated, we should have paid for supplies 757,000*l.* The prices were afterwards re-adjusted in the year 1862, and taking our supplies according to that we should then have paid 320,000*l.*; it is simply about half, and our actual supplies taken at the price which we were charged, cost 416,000*l.* This shows the difficulty of agreeing upon the "reasonable price," even with the great advantage of having the Patent in possession and being able, by Woolwich, to ascertain the precise cost of producing the article; but if the Patentee holds the Patent in his own possession, it is almost impossible to say what is a fair and reasonable price, because we have not the cost of manufacture.

2300. (*Mr. Fairbairn.*) That is in the case where the Patentees themselves manufacture?—Yes. Of course, each Patentee has an extremely exalted view of his own invention. To confirm that, I may give one case, sent us under the terms of our present circular for dealing with inventors. Since 1859 we have never dealt with them without asking them beforehand to state what they consider to be the benefit of their invention, and what is a fair and reasonable sum to assess by way of compensation. This is the circular under which the department now acts with the view of avoiding as much as possible disputes with Patentees and inventors (*producing the same*). The following letter was addressed to the Secretary of State by a Patentee with reference to an instrument of war which was suggested as likely entirely to supersede the Armstrong gun, and at a time when the country was supposed to be in need of the best large-sized guns. The letter states, "Firstly. That the results intended to be attained by my invention are greater safety in using cannon of all sizes, cheapness in manufacturing them, facility of moving them in consequence of greater lightness of construction, and the possibility of making cannon so powerful as to render all iron or steel plating useless as protection to

ships of war. Secondly. That the estimated cost of the invention in a state to be introduced into the service is about 2,000*l.* for a cannon large enough to sink the 'Warrior' by three shots, and about 150*l.* for a cannon a little stronger, and better than the Armstrong 100-pounder. Thirdly. That the sum I require for the assignment of my Patent to the Secretary of State is 500,000*l.* or for a licence to manufacture, the sum of one shilling per hundred-weight of cannon made on my plan by Government officers in Royal arsenals or foundries."

I have with me a list of inventions which I may refer to for the same purpose; not one of these inventions has been accepted; they have been examined, and not one is worth anything; but I only quote them to show the price which each inventor puts upon an invention which turns out to be useless. One gentleman for the expanding or minie bullet, asks 500*l.* a year. Another, for an incendiary system of warfare, asks 50,000*l.* Another gentleman will sell his Patent for strengthening guns for 500,000*l.*; that case I have just quoted. Another gentleman asks 5,000*l.* for a projectile and a royalty of 9*d.* on each shot. Possibly there is nothing more deceptive than in a large department, like the War Department, assessing a royalty for its consumption; for in the case of minie bullets or many other things where a royalty is placed upon consumption it is found to be enormous. When we rewarded Mr. Pritchett for his minie bullet, in 1853, and endeavoured to take out anything like a scale, we found that the consumption of the article was so enormous that you could not reconcile what was ultimately given for it with any figures. Another gentleman asks 15,000*l.* for the invention of a projectile or 10,000*l.* for the licence. The next case that I have is a material for making the fittings for limber boxes; 1,000*l.* is asked, or 1*s.* 6*d.* per piece for the article when used. Here is another invention for shells; 8,000*l.* is asked. The next is an invention for muzzle stoppers for cannons and rifles; 10,000*l.* is asked for the Patent. The next is a plan for suffocating troops in tents, for which 12,000*l.* is asked, and a note is put to the effect that it is too absurd for the Ordnance Select Committee even to investigate. The last which I have upon the list is an invention for water-proofing paper, for which 5,000*l.* is asked. There have been no pains taken in selecting these cases, and I merely quote these instances to show how extremely difficult it is to approach an inventor for the purchase of the Patent before using it. I could show the Commissioners by the returns of the War Office that we have paid larger sums for Patents which we have never used than for valuable inventions in constant use.

2301. (*Sir W. P. Wood.*) Have you been much inconvenienced by threatened litigation?—Certainly; and I am surprised that General Lefroy left another impression upon the Commissioners, because I will read from a report of his; I am sure that it was quite unintentional. At the time when the Armstrong manufacture was particularly introduced we were threatened with an injunction from Captain Blakely; the matter was referred to me, and I advised the Department to disregard the threat, but had we been stopped at that moment it might have been disastrous, and in the view of the Ministers of the day it would have been extremely prejudicial. I will read the instances which are cited in the Report of the Ordnance Select Committee. "The Ordnance Select Committee have been very frequently impeded in the prosecution of inquiries tending to the greater efficiency of Her Majesty's Forces by real or pretended legal right of Patentees. To quote recent examples, Messrs. Brown and Webb claimed the exclusive right to employ gunpowder in a compressed state. Mr. Lancaster claimed the exclusive right to fire rockets under water. The Whitworth Ordnance Company claimed the exclusive right to make projectiles with flat fronts. Mr. Ramsay claimed compensation for the supposed adoption by the Royal Carriage Department of means of checking the recoil

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"of guns by elastic springs or buffers. Mr. McKay, who has patented a great variety of unusual forms of shot, recently threatened the Committee with legal consequences if any of them were tried without his concurrence. Captain Blakely attempted to interfere in the manufacture of Armstrong guns, as an infringement of his Patent. Messrs. Church and Goddard made a similar attempt on other grounds, and speaking generally the Committee remark that it may be asserted that it is scarcely possible to propose a new arrangement of breech-loading, or new mode of rifling, or a new description of projectile which shall avoid known defects and embrace known excellences, without finding some of the details anticipated by Patentees and claimed as private property, although they are only component parts of a system to which as a whole none of these Patentees can lay claim." The Committee proceed to state,—"The foregoing examples, which might probably be extended by referring to records of earlier date, will suffice to show that if Her Majesty's Service is not seriously obstructed by the facility with which Patents are at present granted for warlike intentions, which the Crown alone can for the most part make use of, it is not for want of intention on the part of Patentees to enforce their rights, but from other causes; the first of which is the worthlessness of the great majority of the so-called inventions patented; and the second, the small proportion which really new discoveries or appliances bear to those which are only supposed to be new, by ignorant or interested parties, but on examination turn out not to be so. These conditions are no security that serious inconvenience may not some day accrue." Those are the instances which General Lefroy gives.

2302. (*Lord Overstone.*) With regard to those cases last alluded to as Patents obstructing the progress of a public department which turn out in the end not to be used, would it be possible to avoid the entering of those Patents upon the list of patented articles by a moderate degree of care in investigating the novelty of the invention before the Patent was granted?—I apprehend that every man takes his Patent at his own risk.

2303. Do you think that it would be practicable to introduce as a condition before granting a Patent, that there should be more stringency of examination with regard to want of novelty?—I am afraid that it would not be possible here, but the Prussian Government never grant a Patent without first satisfying themselves that the thing is an invention, and having made the grant, I believe that they always protect the Patentee from all consequences, and themselves engage in all the litigation.

2304. (*Mr. Grove.*) There are very few Patents in Prussia?—Very few. Then with regard to the extreme number of Patents (and I had intended to bring as an illustration Mr. Aston's work, in which they are all abridged), I think I may safely say that some hundreds of Patents have been granted for instruments and munitions of war alone since 1851, which are now in force, and although each of these might contain some slight element of use, it is in all probability only by a combination that any of the Patents could be used.

2305. (*Mr. Waddington.*) You were never stopped by injunction?—No; we have generally gone on and run the risk of what may happen.

2306. There has never been an application to the Court of Chancery for an injunction?—Never.

2307. (*Chairman.*) I understand you to agree with Mr. Carpmel, that the Crown ought to have liberty to use patented inventions, itself fixing the amount of compensation?—I think so. In the first place I think that it is a favour conceded by the Crown to the Patentee, and that individual interest ought to give way to the public good as far as user goes. The other matter resolves itself into a question of remuneration. In the first place the Crown stands in a very different position from a

private manufacturer; a private manufacturer might not be very truthful as to whether he was or was not using the invention. No supply is made in the public department until Her Majesty seals the pattern; it is then entered upon the books, and every facility must at once be conceded to a man for knowing whether or not his Patent is used; and the exact quantity manufactured is returned to Parliament; the exact supply of every particular article is shown as easily as possible. Therefore if a Patent has been infringed, the owners can at once detect it, and to what extent.

2308. (*Mr. Waddington.*) In your opinion, is there the slightest analogy between the case of a private individual pirating an invention for his own interest, and the case of the Crown using it for the public interest?—I think not. We deal without any personal interest, assessing to each person, as fairly as we can, the amount of compensation to which he is entitled; not, perhaps, absolutely, but as compared with the sums paid to others. I can show the sums which have been paid to inventors for the last 20 years.

2309. (*Chairman.*) I understand that if all future Patents were limited by such a proviso as you propose, it might be done by the act of the Crown, without any legislation?—We have thought so ourselves, and we have proposed a proviso which would satisfy us. In fact, the paper which is now before me states our case better than I could state it in evidence.

2310. Do you hand in this paper as a memorandum stating the case of the War Department?—Yes.

The witness delivered in the same. See Paper A.

2311. (*Mr. Hindmarch.*) You have mentioned one case in which there was a reference to the Attorney General. Would it be an effective mode of providing for the remuneration that in case of difference the matter should be determined by some arbitrator to be appointed by the Attorney General or some public officer?—From my experience an arbitration is a greater evil than a suit taken as a principle. In the first place there are very few people dealing with public money, who deal with it with the same care and conscientiousness that they do in arbitrating upon the rights of private men. We have the greatest difficulty in adjusting claims so as to satisfy claimants, and if we ever appear hard towards other people, it is from the feeling that every man tries to get as much as he can out of the public purse, and it requires the greatest vigilance and care to arrive at a fair adjustment of what is due to him. I would also observe that there is this to be said, that these Patents are granted not only to our own subjects, but to aliens, and we are not unfrequently placed entirely in the hands of an alien for a supply. I can give instances in which the most valuable instruments and munitions of war have been invented by Americans, and therefore we have no security that the supply will be furnished to us. Whereas if a man declares his Patent, and we can use it, we can judge for ourselves whether the thing is advantageous or not.

2312. (*Mr. Waddington.*) You mean that aliens have taken out Patents in this country?—Yes, and there have been a great many of them, and they have been valuable Patents.

2313. (*Mr. Grove.*) So that a foreign government could make use of our Patent Laws to shut out the inventions from this country?—Yes.

2314. (*Lord Overstone.*) Supposing that a person in this country invented a gun which was vastly superior to any other gun in existence, and patented it in this country, and then refused to sell the use of that Patent to the Government of this country, but sold it freely and exclusively to some other Government, would that be practicable under the law?—I apprehend quite so.

2315. (*Chairman.*) Nothing but the interference of Parliament could prevent its being done?—No; it is entirely his own; he may do whatever he likes with it.

2316. In the extreme case which has been suggested

it would be necessary to have a special Act of Parliament?—Yes; but I could show the Commissioners that we have not unfrequently perfected men's inventions, and because they have not received the precise sum which they thought they were entitled to, they have sold their inventions to Foreign Governments. It once happened that a man's invention was perfected by the officers of the Department, and expense was incurred on behalf of the public, and he then insisted upon certain terms, and in the letter in which he insisted upon them he told us that if we did not give them he would go to the Emperor of the French and get them.

2317. (*Mr. Grove.*) And did he actually get them?—I do not know that he ever did.

2318. (*Mr. Hindmarch.*) Was one of the cases which you mentioned that of improvements in the preservation of vegetables?—No. Then there is a considerable difficulty in the present law with regard to the protection of the Crown from Patents. Of course, the Crown has in its employment a very valuable and skilful set of officers, and one of them who is present is experimenting upon gun cotton, but it is with him a matter of extreme embarrassment to know how to deal with the subject, if he discloses by way of Specification all that he knows, he sends the invention or discovery he has made away to the winds—the very night that it is put upon the file it goes to Paris, Dresden, Berlin, and elsewhere. If he does not do that he is afraid that some man will find out precisely what he has in view, and put a Patent on the file, and tax the Government in that way. So that we are upon the horns of a dilemma.

2319. (*Lord Overstone.*) What do you apprehend to be the remedy for that?—Of course if we had the power of using any invention at any time we could better grapple with a difficulty of that sort.

2320. (*Chairman.*) You would not then care to take out a Patent?—No, we never have done so. We have run the risk of it rather than do so.

2321. (*Mr. Waddington.*) That would raise your other objection?—Yes.

2322. (*Mr. Fairbairn.*) The War Department, I suppose, is subject to a good deal of annoyance in that way by claims of that description?—No doubt.

2323. Even when improvements are effected by officers of the Crown?—Yes; it is a very invidious question to be raised. It was more frequently raised a few years ago, when many of the officers at the arsenals and factories were members of the Ordnance Select Committee, because if they were found to be using the inventions of the persons who came before them as members of that Board, the allegation was made that the inventions had come to them as members of the Board.

2324. (*Mr. Grove.*) Has this case ever occurred, that you have been secretly practising something, and somebody else has patented it?—Yes, questions have often arisen of that kind as to priority of invention.

2325. If you practised it in secret that would not avoid Letters Patent?—No, it would not be a publication.

2326. In that case what would you do as regards giving a man compensation. He would be legally and morally entitled to some reward as having first given his invention to the public; would you give him the same compensation for his machine as if you had never practised it?—I think not. We have generally investigated the facts to elicit the truth. We have had a great deal of discussion at different times. In some cases it is very essential that the thing should be secretly used for a time, because although you can hardly exclude the outside world from all knowledge of the invention, yet sometimes the priority of a few months in times of war may be of the greatest possible moment. There is one other question to which I should like to refer, namely, as regards publicity, which may be considered to be a considerable disadvantage. At the present time the Patentee is obliged to state exactly what the inven-

tion is, and to define it so accurately that any workman is at any time able to make the article which is there stated.

2327. Does not the Act of the 22nd of Victoria, chapter 13, exempt you from that, inasmuch as the 3rd clause of that statute enacts that the Secretary of State for war may certify to the Commissioners of Patents that the invention should be kept secret?—I think not. That statute was framed when Sir William Armstrong's invention first came out, and I believe that the practice is still existing in the Patent Office that the Specifications are sent the same night as they are filed to all the foreign courts; the result was that when Sir William Armstrong patented his time-fuze in January, he sent it through the Patent Office to the Emperor of the French, and also to the Emperor of Austria, who both were at liberty to use it, but his own sovereign could not do so till the following April, when he assigned it to the Secretary of State. Considerable importance is attached by other nations to secrecy. Letters have come from the Foreign Office, stating that an invention communicated to the English Government is not to be disclosed under any possible circumstances; either the nature of the invention or from whom it came. The French law has been so altered since that Act was passed so as to enable the Government in France to suppress publication. Power is given to the Government to regulate by an Imperial decree the conditions of keeping inventions secret, and of "expropriation" for public purposes, and the mode of publications, Specifications, and registering transfers. The Act of the 22nd of Victoria was framed with the view of enabling the Secretary of State to suppress the publication of Specifications, but unfortunately it obliges him to acquire the Patents first, and he does not want to acquire half the Patents which are taken out; otherwise he has no means of preventing the publication of the Specification. Moreover there is no power of taking a Specification off the file, or suppressing it, and therefore the power which we now have is an extremely limited one. We must first take an assignment of the Patent, and that assignment must be taken before the Complete Specification is filed, and then if we are the owners of the Patent before the Complete Specification is filed, we can prevent the Provisional Specification being published, but then we are obliged to purchase it, and we have not sufficient experience, because it is useless to us unless we adopt it into the service, and it is never adopted into the service until it has been extensively practised.

2328. (*Mr. Hindmarch.*) Would you suggest that a longer time should be allowed for the Specification?—I think that the remedy would be to allow the Secretary of State at any time to obtain from the Patent Commissioners, with or without the assent of the Patentee, an order directing their own officer to keep the Specification secret.

2329. (*Mr. Grove.*) In that case how would you manage with regard to the compensation to the Patentee, that would be giving a more formidable power than what we have discussed already?—I do not think that the Patentee would be injured by it.

2330. Supposing that for 14 years you had an order that the Specification should be kept secret, that order might be continued during the whole continuance of the Patent?—Yes.

2331. (*Sir W. P. Wood.*) Then the Patentee could not grant licences?—Why not? It does not affect the validity of his Patent.

2332. (*Mr. Grove.*) He could not use it at all, he could not use the machine. To effect your purpose of secrecy it would entirely shut up the use of the Letters Patent?—You would do it with the assent of the Patentee. If the Patentee has anything to propose, our officers may say, "We think this a remarkably good thing, and though there has been a great deal of time occupied in investigation, the Patent may have still escaped attention, and under the circumstances, if the Crown adopts it, we think that the Specification should be taken off the file."

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2333. If the Patentee was satisfied with the compensation the difficulty would be cleared, but my difficulty is that if, as regards a great number of Patents for munitions of war, you had the absolute power of keeping them secret as long as you pleased, you might virtually shut the Patentee out of his Patent for its whole term?—This power is only to the Crown, or its own officer.

2334. Would it not come very much to this, that it would only apply where you had been instrumental in taking out the Patent, or to Patentees who had agreed with you?—I think so.

2335. That seems to be the object of this statute?—Certainly.

2336. (*Mr. Hindmarch.*) Under that statute are you at all protected against the following inconvenience,—supposing that a Patentee sells you his Patent, and that you get the Specification kept secret, have you any means of preventing his promulgating it?—None, beyond taking a bond in the payment of a certain sum.

2337. He might cross the channel?—Yes.

2338. He might be a foreigner?—Yes.

2339. (*Mr. Waddington.*) You cannot provide against that?—No. I have a case which arises under "The Registration of Designs Act," but may be used as an illustration to show how these exclusive rights are worked against the Crown. Not very long ago Her Majesty thought it expedient to change the clothing of the 91st regiment of foot into the Highland costume. The Commander-in-Chief placed himself in communication with the officers, but no sooner did certain tradesmen know that Her Majesty had sealed the pattern than they registered it, and the following is the letter which came to us from the Horse Guards,—“Messrs. [] having registered the designs for the appointments and ornaments approved by the Queen for the officers

“of the 91st Highlanders, which were prepared for submission to Her Majesty by them, I am directed by the Field Marshal Commanding-in-Chief to request that you will move the Secretary of State for War to call upon the Solicitor to the War Office, to state how far such registration is rendered invalid by the fact of their being articles of military equipment, the manufacture of which cannot be monopolized by one house, to the exclusion of the trade generally.” The next letter shows the facts more particularly, but those facts are not varied. “In reply to the inquiry contained in your letter of the 20th ultimo, I am directed by the Field Marshal Commanding-in-Chief, to request that you will be pleased to inform the Secretary of State for War, that when the Queen permitted the 91st regiment to assume the designation and garb of a Highland corps, it became necessary to lay down and describe the appointments and ornaments to be worn by the officers, and Colonel Bertie Gordon commanding the regiment was accordingly requested to procure and submit for approval drawings of the same. These he obtained from Messrs. [], who, when the sketches had been approved, registered the designs, thus securing for themselves the sole right of manufacturing articles of equipment for the officers of the 91st Highlanders, and it is this registration which His Royal Highness desires to ascertain is or is not valid, other men in the trade having inquired whether they are at liberty to manufacture the articles sanctioned by the Sovereign, notwithstanding the registration alluded to.” Another firm holds a Patent for a head-dress for infantry, and if the pattern should be generally adopted into the service, the decision would in effect place the whole supply of chacos for the army exclusively in the hands of one firm.

F. A. Abel,
Esq., F.R.S.

FREDERICK AUGUSTUS ABEL, Esq., F.R.S., examined.

2340. (*Lord Overstone.*) I believe that you are connected with the Chemical Department of the War Office?—I am the head of the Chemical Department.

2341. Has it come under your observation in that capacity that the proceedings of the War Office are seriously embarrassed or interrupted by the existence of Patents?—I do not remember any instance in connexion with the manufacturing departments where serious embarrassments have actually occurred in consequence of Patents existing which relate to materials of different kinds manufactured in those departments; and for this reason, that in the first instance such manufactures relating to Patents are necessarily experimental, and cannot therefore interfere, according to the present state of the laws, with the Patent rights of individuals. It is not until any particular article manufactured in a department at Woolwich or elsewhere has been approved of for use in the service, that the claims of the Patentee have come into consideration at all.

2342. (*Mr. Waddington.*) Do parties ever make claim against you for mere experiments?—Such cases have occasionally occurred, but they have been ignored because they could not have been legally carried out.

2343. (*Lord Overstone.*) But is it the fact that the heads of manufacturing and other departments connected with the War Office have found that the existence of Patents for implements and appliances for war has been a source of serious inconvenience to them?—I do not remember a single instance in which it has occurred.

2344. Is there any ground upon which you think that this Commission should take into consideration the expediency of altering any of the provisions of the Patent law, for the purpose of extending the necessary protection to the transactions of the War Office?—Certainly.

2345. In what respects do you think that the law should be altered and upon what grounds?—I think

that when articles actually adopted into the service are claimed by Patentees, that is to say, where they are really patented articles, embarrassment, not to the manufacturing department itself, but to the Government, may certainly arise in consequence of the unreasonable claims of Patentees, and it is for that reason that undoubtedly some better arrangement is required for the purpose of determining the true value of the particular patented article, or Patent, to the Government.

2346. You think that some new arrangement for determining the value of the patented article which the Government is using should be devised?—Yes.

2347. Can you guide this Commission in any way by suggesting what form that provision shall assume?—I agree to some extent with the evidence which has been given by the solicitor to the War Department, that the head of a manufacturing department is undoubtedly the authority most fitted to determine, and to fix the proper value of any particular patented article which is to be adopted into the service. At the same time I think that instances may occur in which the decision or recommendation of the head of such department may be objected to, and perhaps with some reason, by the Patentee. The head of a manufacturing department may be himself more or less an inventor; he naturally makes it his business to improve as much as possible the articles which he has to manufacture, and with which he has to deal, and consequently a Patentee may sometimes reasonably object to a recommendation made by such an officer as being biased or as not taking fully and fairly his claims into consideration.

2348. (*Mr. Hindmarch.*) Are you connected chiefly with the experimental department?—I am connected with the experimental department and the manufacturing departments.

2349. Have you much to do with the manufacturing departments?—I am only connected with them as a consulting authority.

2350. Advising them?—Yes.

2351. You have nothing to do with the management of the manufacturing departments?—I have not.

2352. (*Mr. Fairbairn.*) As I understand you, you have not been subjected to much inconvenience with regard to claimants in your department?—Not in my department; I speak generally, and I know that the heads of other departments in the arsenal would give the same evidence, that practically they are not inconvenienced in their actual work by the claims of Patentees, I mean that the embarrassment does not apply to the manufacturer himself, though it may arise at the War Office; he can carry out his experimental manufacture without any hindrance; any claims afterwards made become a question resting with the War Office solicitor and other authorities to whom they may be referred.

2353. In your experimental chemical researches you have not been much troubled with regard to claimants?—Not at present, but I think that it is possible for cases to arise in which one may be troubled; this difficulty may arise (and it has been pointed out already to some extent by the solicitor) that the head of a manufacturing or other department, who has to deal experimentally with things, is frequently, as I have before said, improving appliances or materials, the manufacture or application of which he superintends; now, if he has not the power either of keeping those improvements perfectly secret, or of securing them to himself by Patent, then the War Office authorities are placed in the position of having in all probability to pay private individuals for inventions or improvements actually made by their own officers.

2354. In your experimental inquiries, when you have happened to fall upon any discovery, you have not been much annoyed by claimants saying that they have had precedence of you?—Not at all, and it is to that that I referred in my first answer. We do not meet practically with those embarrassments during experiments, but we may meet with them in applying the details of improvements. For instance I am at present engaged upon the working out of the application of gun cotton, the whole details of which application were communicated as a great secret to this Government by the Austrian Government. Some time after I commenced these experiments, while they remained a perfect secret and while every care was taken by this Government to keep them secret, a Patent was taken out in this country for the whole improved process of the manufacture.

2355. You are still pursuing those researches?—Those researches are being pursued, and improvements are being worked out, but in all probability all those improvements might be claimed under an existing Patent, which is a comprehensive one, and unless such improvements can be secured to the Government in some way, we should become embarrassed, in the event of applying them, by the claims of Patentees.

2356. (*Mr. Grove.*) Could a Patentee claim anything which was invented subsequently to his Patent, without fraud, he might declare that he had himself invented it first?—Not an actual invention, but you know how frequently improvements are claimed under the original Patent.

2357. (*Sir W. P. Wood.*) I understand you to say that as regards your own processes, and your own inventions, you go on inventing or carrying on your manufactures just as if no Patents existed, without troubling your mind upon the subject?—Exactly so.

2358. But when the Government wish to use your inventions they may be impeded by the claims in question?—Yes; then comes the question as to the claim, and that is a question entirely apart from the manufacture. As manufacturers we are not practically embarrassed by the question.

2359. (*Mr. Grove.*) Has any suggestion occurred to you with reference to the mode of remunerating Patentees, supposing a clause to be put into the Letters Patent, enabling the Government department to use

their inventions in addition to the present clause. The difficulty which has hitherto occurred upon the subject is that in one case an arbitration would be a very costly and tiresome and impracticable proceeding, and in the other there is the difficulty of letting the buyer assess the sum at which he shall purchase the invention. Has any mode occurred to you by which a reasonable sum could be put upon the invention, and assured to the Patentee?—I think that in many instances it would become necessary to have some other official referee in addition to the head of the manufacturing department, to determine the value of the invention, for the reason which I have stated,—that the inventor may say, and possibly with justice, that the manufacturer is biased, that he does not appreciate the full value of his invention, because he himself has some very similar invention, and that therefore although it may be adopted for the service, that manufacturer will not be inclined to give him the full value which he may claim for it. That objection has been raised, I speak generally—I came here very unexpectedly, and I am not able to quote an instance, but I know that that objection has been raised, and that the question of bias is constantly thrown into the teeth of the heads at Woolwich.

2360. (*Mr. Fairbairn.*) Then it is your opinion that a referee would be necessary?—Yes; I think that the head of the department is the man to advise, but I do not think that it would be a satisfactory arrangement to the Patentee to give the head of the department the sole power to determine the value to be set upon the invention.

2361. (*Mr. Waddington.*) It has been suggested that there should be an appeal from the department which has used the invention, to the Lords of the Treasury, would that meet your view?—I am not prepared to say whether that particular form of reference would be the best.

2362. (*Lord Overstone.*) Am I to understand you distinctly that the same power which is vested in the head of the department to determine the price that he is to pay for a patented article which he has used, would not be a satisfactory arrangement with regard to patented inventions which he has used?—I think that in very many cases it would be so, but that cases may occur in which it might not be so.

2363. Do you think that the probability of the occurrence of such cases is so great, as to make the principle which has been found applicable hitherto to the remuneration for articles consumed, inapplicable to the remuneration for inventions used?—I think not, but I think that it would still be necessary, in any new arrangement to have some means of settling dissatisfaction, which would be sure to arise occasionally, and I believe in some instances with justice.

2364. Do you think that that dissatisfaction could be sufficiently met by making some other officer of the Government, unconnected with the particular department, a referee, or do you think that it is necessary to seek a tribunal entirely beyond the bounds of the Government?—I think that it would not be necessary to have a special tribunal, but that it would not be at all difficult to select a competent officer, and one of good judgment, who would determine impartially whether the proposal of the head of the department were a just one.

2365. The question had not reference to the creation of a new tribunal for the purpose, but whether in seeking a referee it was necessary to go beyond all the officers of the Government, or whether a referee could be satisfactorily found in some other officer of the Government but not connected with the particular department, say for instance, the Chancellor of the Exchequer, or the Lords of the Treasury, or the law officers of the Crown?—I think that a referee certainly could be selected from the Government.

2366. And you think that a selection made from other officers of the Government not connected with the particular department would be sufficient to allay the dissatisfaction which you otherwise apprehend?—Yes.

F. A. Abel,
Esq., F.R.S.

24 June 1864.

F. A. Abel,
Esq., F.R.S.
24 June 1864.

2367. (*Mr. Grove.*) You were asked with regard to the analogy between the case of selling articles to the Government, and the Government using the Patentee's invention. Is there not this difference, that whereas in selling articles the Government buy an article, and therefore must pay for it, and would probably pay a reasonable price, the assessing the value of an invention would be much more difficult because they must take into consideration all the bearings of the invention, they themselves also being inventors?—There certainly would be that difference between the two cases, and that would make it a more difficult question to deal with than that with reference to the purchase of articles.

2368. (*Lord Overstone.*) Is there anything further which you think it important to submit to the Commission?—There is only the question of inventions made by Government officers themselves. This appears to me to be a question which might not come within the pale of any general arrangement made with regard to private Patentees, and it may be a somewhat difficult question to know how inventions of that description should be dealt with. It is necessary on the one hand that the Government should be protected from the piracy (if I may use the term), of such inventions as had been worked out by Government officers; at present the only method of doing that is by securing to the officer himself a Patent right for that particular invention or improvement. On the other hand it is also not only advisable but just, that the officer himself should be protected against the public in the case of an invention to which he has given great time and thought.

2369. (*Mr. Fairbairn.*) The same as any other Patentee?—The same as any other Patentee.

2370. (*Lord Overstone.*) Then am I to understand you that the points to be met are these: First of all, the danger of an officer of the Government taking out a Patent for an invention, the idea of which he has derived in the course of his service under the Government in his department, and on the other hand the danger of an officer being deprived of a legitimate Patent by the invention transpiring to the public before he has protected himself?—The second is the point I refer to, and the evil arising out of it may be two-fold, not only that of the officer losing any benefit which he should justly derive, but of the Government having to come to some arrangement with private individuals who have really no right to the particular invention.

2371. (*Mr. Fairbairn.*) With reference to any discovery or invention made by any officer of the Government, and brought into use as soon as it is made public, no other person can take out a Patent for anything of that sort so as to deprive that officer of the merit and the use of his invention?—Not if it is made public, but there is the difficulty.

2372. (*Mr. Hindmarch.*) Do you propose that in cases of this sort, namely, of an invention made by a Government officer, the Government should have the right to use the invention free, and that the inventor should have a Patent as against all the members of the public?—Exactly so, that as regards the public he should stand as a private individual, but that in reference to the Government, as he is their servant, and has been engaged in their employment in working out the subject, the Government should have

the free and uncontrolled use of it without any conditions.

2373. (*Mr. Waddington.*) Would there be any difficulty in effecting that object by a Patent granted to a person in the service of the Government?—I apprehend not.

2374. (*Mr. Fairbairn.*) If I understand you correctly, any invention or discovery made by officers of the Government should not be patented by the public?—Exactly.

2375. They should not have any advantage from it because they have not contributed either to the discovery or to the invention?—Quite so. The thing is very simply understood by an illustration. An officer makes an improvement in fuzes; unless he patents it he may be deprived of the benefit which it would be to him as a private individual, because a manufacturer may, in this country for private purposes, or for foreign countries, make this improved fuze, and there would be no possible redress for the inventor or the improver. On the other hand, if the invention is not secured to the Government either by strict secrecy, which is impossible, or by a Patent right, a very slight alteration of the improvement may take it entirely out of the hands of the Government and place it entirely in the hands of a private Patentee.

2376. (*Mr. Hindmarch.*) Suppose this case, which I believe is not at all unfrequent, namely, that a man of skill employed in a Government manufactory devises some improvement, do you not consider that it would be in truth the property of the Government?—That may be so, but, supposing he were working in a private factory, his employers would object very strongly to giving it to any other individuals or firms.

2377. Suppose that in a case of that sort it was desired by the Government to keep the matter secret,—the officer has devised it in pursuance of his employment, and has been paid for doing it,—would you give him something beyond his salary, for instance?—That is a question which I am not prepared to discuss. I think that in the abstract he would not be entitled to it, if the devising of improvements were a part of his duty. But I was speaking of his relation to the public.

2378. I ask you that question because, if he would not be entitled to a remuneration in that case, I do not see how he could be entitled to it in any other?—I think that a public officer appointed to do certain work, but making a valuable discovery, quite apart in many instances, or to some extent apart from his work, would certainly have a claim, not only upon the Government but upon the public if they used his invention, and I think that although, as a Government officer, his services are at the disposal of the public so far, yet certainly no invention which is the product of a special exertion which he has made is of necessity the property of the public.

(*Mr. Carpmel.*) May I be allowed to say that Mr. Abel has misunderstood me when I spoke of heads of departments; he has confounded that with managers of departments. Mr. Abel is in that position the same as a private manager would be in a private manufactory. I mean the heads of departments, and not those gentlemen who are the manufacturing managers of the departments. I mean the Secretary of State, or whoever it may be.

The witnesses withdrew.

Adjourned.

APPENDICES

TO THE

REPORT OF THE COMMISSIONERS APPOINTED TO INQUIRE INTO THE WORKING OF THE LAW RELATING TO LETTERS PATENT FOR INVENTIONS.

APPENDIX No. I.

APPENDICES to the EVIDENCE of MR. WOODCROFT, MR. EDMUNDS, MR. GROVE, MR. CLODE, and
MR. WEBSTER.

(1.)—APPENDIX to the EVIDENCE of MR. WOODCROFT.

LIST.

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| <p>A. Official Practice under the Old Law.</p> <p>B. The Commissioners of Patents' Publications.</p> <p>C. Extract from the 9th Annual Report of the Royal Museum and Library, Salford; also a Table furnished by the Librarian, showing the number of References made to the Commissioners' Publications in the years 1854-7.</p> | <p>D. Table extracted from the 8th Annual Report (for 1860) on the working of the Free Library, Camp Field, Manchester.</p> <p>E. Tables furnished at the request of Vice-Chancellor Wood.</p> <p>F. Results of the Examination of the first hundred Inventions for which applications for Patents were made in each of the years 1855, 1858, and 1862.</p> <p>G. Prussian Patents.</p> |
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A.

OFFICIAL PRACTICE UNDER THE OLD LAW.

Stages to be passed and Fees and Stamps payable in obtaining Letters Patent for England alone.

	£	s.	d.
Petition, with Declaration at Chancery Affidavit Office - - - - -	0	1	6
At the Home Office:—			
Reference of Petition to Attorney or Solicitor General - - - - -	2	2	6
Queen's Warrant to ditto to prepare Bill - - - - -	7	13	6
(An extra fee of 1 <i>l.</i> 7 <i>s.</i> 6 <i>d.</i> was charged for every additional name after first, and an extra fee of 1 <i>l.</i> 7 <i>s.</i> 6 <i>d.</i> if the Patent extended to the Channel Islands and Colonies, or either of them.)			
Queen's Bill - - - - -	7	13	6
(The same extra fees were chargeable as in the Queen's Warrant.)			
At the Attorney or Solicitor General's Chambers:—			
Report - - - - -	4	4	0
At the Patent Bill Office:—			
To Attorney and Solicitor General on the Queen's Bill (one moiety each) - - - - -	5	0	0
The Clerk of the Patents on ditto - - - - -	2	7	6
The Clerk of the Patents for transcripts for Signet and Ring Seal Offices - - - - -	1	7	6
Ingrossing Clerk - - - - -	1	1	0
Stamp - - - - -	6	0	0
At the Signet Office:—			
Signing, sealing, and passing a Bill - - - - -	4	7	0
(If the Patent was for more than one person, an extra fee of 5 <i>l.</i> 18 <i>s.</i> 6 <i>d.</i> was chargeable for each additional name, and an extra fee of 13 <i>s.</i> 6 <i>d.</i> if it extended to the Channel Islands and Colonies or any of them.)			
At the Privy Seal Office:—			
Signing, sealing, and passing a Bill - - - - -	4	2	0
(Same extra fees were chargeable as at Signet Office.)			
At the Great Seal Patent Office:—			
Preparing the several documents, engrossing and enrolling Patent, Stamps and box - - - - -	48	7	7
(An extra fee of 2 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> for each additional name.)			

Total for England alone - - - - -	94	7	6
The cost of a Patent for Ireland was - - - - -	116	17	7
And that for Scotland - - - - -	63	3	7
Total - - - - -	£274	8	8

To this sum may be added the Costs of Opposition, if any, and the fees payable on the Enrolment of the Specification.

The average cost of a Patent for the three kingdoms under the old law was estimated by Mr. Hindmarch at 400*l.* The average cost of a Patent for England alone was not less than 300*l.*

The following were the distinguishing points of Official Practice under the old law:—

1. A separate Patent for England, Scotland, and Ireland.
2. An extension of the English Patent to the Channel Islands or the Colonies on payment of an extra fee.
3. Payment of extra fees for every additional name in Patent after the first.
4. The Patent was granted on the Report of the Law Officer on the Title and Particulars of Invention left at his Office, and termed the "Deposit Paper."
5. The date of the Patent was the day of sealing, usually (except in opposed cases) about a month from the date of the application.
6. The Patent was granted without any notice being given, except to persons who had entered Caveats at the offices of the Attorney and Solicitor General.
7. Titles of Patents were not restricted to one invention.
8. In no case could a Specification be enrolled before the sealing of the Patent.
9. In entering Oppositions, the fee only, without any statement of particulars in writing, was required.
10. Specifications were enrolled in three different offices.

As the changes in practice in all these respects introduced by the Act of 1852 will be set forth in the subjoined summary, it will only be necessary to advert here to the last item as having special reference to the duties of the Specification Department of the Commissioners' Office.

The fees for searches paid at the three Enrolment Offices were:—

	s.	d.
In the Petty Bag - - - - -	3	6
„ Enrolment Office - - - - -	1	0
„ Rolls Chapel - - - - -	1	0
	5	6

As it was generally advisable to extend a search to the three offices, and for every search in each of the offices a separate fee was demanded, these expenses, coupled with the want of indexes, deterred most men from prosecuting any inquiry as to the priority of their inventions. Where.

however, the apparent importance of a discovery afforded sufficient inducement for such an inquiry, weeks were often occupied in the task, and from 2*l.* to 3*l.* have been paid by a single inventor in one day for searches at the Petty Bag Office alone.*

Much of the delay and expense was due to the want of sufficient indexes. In 1851 a witness† before the select committee on the Patent Laws, thus stated his own experience:—

"There is one great evil I found to exist, namely, that the specifications are enrolled in three different offices; the Rolls Chapel, the Enrolment Office, and the Petty Bag Office, and at none of them had they a complete index of all the enrolled Specifications of Patents; so that, when an inquirer asks for a certain Specification, they will look in their index which contains the Specifications only which have been enrolled there; and if they have not the Specification asked for, they tell him, 'We have no such enrolled Specification, you must go elsewhere;' then they say, 'But you must nevertheless pay your fee for the search; that is necessary;' then he goes to the next office; if they have it not there the fee for the search is again demanded. He then goes to the third office, and it may not be even there, as the Specification may not have been enrolled. So that the inquirer not only loses his time in running to all the three offices, but he is compelled to pay three separate fees."

To add to this evil at neither the Enrolment Office nor the Petty Bag Office were persons allowed to make copies or even a single extract in writing.

In the short space of five years the whole of the 13,561 Specifications thus divided amongst three offices of enrolment have been copied, printed, and placed not only in the free library in the Commissioners' Office but in upwards of 150 free and official libraries throughout the United Kingdom and its colonies. And this great work of printing the old series of Specifications has been accomplished without interfering with the daily publication of the Specifications filed under the Act of 1852.

The total number of Specifications under both old and new law thus printed, arranged, and made daily accessible to the public, is 43,458, forming 1,711 volumes of imperial 8vo. including the lithographed Specification drawings.

Of the total weekly number of visitors to the Commissioners' Library, upwards of 200 are searchers for previous patents.

Under the old system with three offices of record, the searches thus made, if confined to a single invention, would have cost the applicants, in fees, upwards of 1,000*l.* weekly, or 52,000*l.* per annum; but as the facilities afforded by the Commissioners' Library encourage the utmost amount of research, it is no uncommon thing for an inventor or his agent to make some scores of searches in the course of one day, the cost of which under the old system would have reached a startling amount.

From the increasing industry exhibited by inventors in prosecuting searches for prior Patents, it may be inferred that the present system has not yet had a fair trial, and that if there were ever any grounds for apprehension as to the multiplication of Patents by the mere revival of old inventions that cause of alarm is daily diminishing by the readiness with which inventors are availing themselves of the facilities afforded by the Patent Office for undertaking their own preliminary examinations.

Previous to the war, the staff of the United States Patent Office cost that country upwards of 24,000*l.* sterling against the sum of 6,500*l.* paid to the officers and clerks in the English Patent Office. This large amount was due chiefly to the system of preliminary examination, a system which Judge Mason, one of the ablest Patent Commissioners of the United States, thus adverts to in his report to Congress in 1856.

"The multiplicity of business of the office renders it wholly impossible for the Commissioner to exercise a personal supervision over the decision in each of the numberless cases presented for official action. When the examiner reports in favour of granting a Patent, it is issued without further question or examination. Under such circumstances the importance of correctness and uniformity of decision upon the first examination can hardly be too highly appreciated. This cannot be reasonably be hoped for under the system now in operation, and the more that system is extended the greater the evil becomes."

"All our republican notions of propriety revolt at the idea of making the substantial rights of property of any citizen depend upon the mere discretion of an executive officer. Such a system seems rather Asiatic than Anglo-Saxon in its type and character. * * * When an application, which should be patented, is rejected by this office, no opportunity is allowed the applicant for showing the justice of his claims before a court or jury. If he has a natural right to what he has created, may he not in such circumstances be regarded as having been 'deprived of his property without due process of law,' and without the intervention of that great constitutional bulwark which he regards as a birthright—a fair trial before a regular judicial tribunal?"

In his address to the English Commissioners of Patents the same learned judge and commissioner remarks, on the subject of printing and publishing specifications,—

"The admirable example you have set in publishing the specifications and drawings in full, and putting them on sale at moderate price, so that all can easily provide themselves with what they need for private use, will ere long, I trust, stimulate our own Government to do the like."

"Nothing short of this in the way of publication can give permanent satisfaction."

One British colony and two foreign states have already followed the example of England in printing and publishing the specifications and drawings in full.

In Canada the first volume was issued in 1860, under the title of Patents of Canada, from 1824 to 1849, Toronto, 1860, in royal 8vo., with woodcut drawings. Copy exhibited.

The United States of America. [Each specification separately published as in England, with photographs of machines and models. 4to.] (Copy exhibited.)

Kingdom of Italy:—Descrizione delle Macchine e Procedimenti per cui vennero accordati attestati di Privativa, in conformità delle Leggi, 12 marzo, 1855, e 30 Ottobre, 1859, pubblicata d'ordine del Signor Ministro delle Finanze. Torino, 1855-62, 4to., with atlas in folio. (Copy exhibited.)

In Austria there was formerly an official publication of the descriptions and drawings of Patented Inventions, but this work was discontinued in 1847. It was entitled Beschreibung der Erfindungen und Verbesserungen für welche in den Kaiserlich-Königlichen österreichischen Staaten Patent erteilt wurden, und deren Privilegiums-Dauer nun erloschen ist. Herausgegeben aus Anordnung der Kaiserlich-Königlichen allgemeinen Hofkammer. Wien, 1841-7, 6 vols., 4to., with copper-plate illustrations.

In France, since 1811, a selection of specifications has been published, now extending to 134 quarto volumes, and about 20 vols. of catalogues in 8vo.; but the fact of this being merely an eclectic work, and the absence of any intelligible system of numeration or a general index, renders its use limited and difficult. The following is the title of this work:—Description des Machines et Procédés pour lesquels des Brevets d'Invention ont été pris, &c., &c. Publiée par les Ordres de M. le Ministre de l'Agriculture, du Commerce et des Travaux Publics. Paris, 1811-62, 134 vols. 4to., and 20 vols. 8vo., with drawings in copper-plate.

The following is an extract bearing on the same subject from the last Annual Report of the Commissioner of Patents for the United States of America:—

"United States Patent Office,
"January 31, 1862.

* * * * *

"In making provision for this great public want Congress should not be unmindful of the examples of other nations most advanced in the mechanical arts. In Great Britain, France, Sardinia, and Belgium, the specifications are published in full, and in such a form that printed copies may be furnished to all who may apply for them at cost price, while the entire publications are extensively distributed for the free use of the public. In Prussia, Saxony, and Bavaria, official journals are published containing full abstracts and lists of the specifications of Patents. The publications of specifications made by the French government consist of 91 volumes, quarto, of the old law, and 35 volumes, quarto, of the law of 1844. All which have been presented to the library of this office."

"In Great Britain the publication of the specifications and drawings of patents has been made upon a scale of magnificence which entitles it to be regarded as one of her great national works. The Great Seal Patent Office has published the complete specifications and drawings of Patents granted by that office since 1623, in two series, the

* See Mr. Woodcroft's Evidence, 1840.

† See Mr. Woodcroft's Evidence, 1851.

old law series from 1623 to 1852, and the new series from October 1852 to the present time. The old law series, comprising 12,977 patents in number, are contained in about 900 volumes, 450 folio volumes of drawings, and the like number of imperial octavo volumes of letter-press. The indices form seven imperial octavo volumes. The cost of these works in 1859 amounted to 92,000*l*. The expense of printing for 1859 was estimated by the Commissioner of Patents at 17,500*l*.

"The publications of the Great Seal Office consist of the specifications and drawings of Patents granted (the drawings are not photographic), a subject-matter index of Patents, an alphabetical index of Patentees, a chronological index of Patents, Commissioners of Patents' Journals (published semi-weekly), assignments of specifications of various classes of Patents, of which 20 volumes have been published, and all are in course of publication.

"The publications are distributed among 107 libraries and offices in Great Britain, 26 libraries in the British Colonies, and 22 in foreign countries. Of these last, six are in the United States; the cost of which has been upwards of 10,000*l*. The cost of the continuation is at least 1,500*l*. weekly. For these costly works our government has been able to make no return except the meagre abstracts heretofore published by us."

In 1858, after the Commissioners' publications had been placed in the great public libraries of Paris, they excited much attention, and the Société d'Encouragement pour l'Industrie Nationale addressed to the French Government a recommendation to follow the example thus set by the Commissioners of Patents in printing the specifications in full, each in a separate form, and with drawings in lithograph. The Société at the same time circulated a specimen number in close imitation of the English form, a copy of which is now produced. (Copy exhibited.)

In no other states are the specifications published in a separate form; but extracts and drawings are given in various official and scientific journals.

After the publication of the specifications and indexes had been fairly commenced the Superintendent of Specifications, with the sanction of the Commissioners, entered into correspondence with the Government of every country in which Patents for invention, or corresponding privileges, were granted; and during the vacation of 1856 visited in person most of the Patent offices on the continent, with a view to effecting an interchange of official publications, and so ascertain the opinions of official persons abroad on the subject of an International Patent Law, at that time under discussion.

The results were highly satisfactory, and led in most cases to an uninterrupted interchange of official publications and documents of the utmost importance to persons interested in the Patent system at home and abroad.

The laws, decrees, or ordinances, together with the rules and regulations relating to privilege for inventions in operation in foreign states and in British colonies have been published from time to time in the "Commissioners' Journal," and from the most authentic and extensive collection of Patent Laws in existence. The following advertisement from the "Commissioners' Journal" will serve as an index to the numbers now produced. (Copies exhibited.)

FOREIGN and COLONIAL PATENT LAWS and RULES, being translations or copies of Official Communications, may be found in the following Numbers of this Journal, published at 2*d*. each, or 3*d*. free by post:—

Austria, No. 291.	New South Wales, No. 386.
Baden, and Petty States of Germany, No. 325.	New Zealand, 861.
Bavaria, No. 262.	Norway, No. 665.
Belgium, Nos. 292 and 348.	Parma, Piacenza, and Guastalla, No. 321.
British Guiana, No. 798.	Poland, No. 335.
Canada, Nos. 279, 625, and 856.	Portugal, No. 325.
Cape of Good Hope, No. 727.	Prussia, Nos. 313 and 329.
Ceylon, No. 648.	Queensland, No. 859.
Cuba, No. 498.	Roman States, No. 319.
Dutch West Indies, No. 322.	Russia, Nos. 334 and 508.
France, No. 228.	Sardinia, Nos. 233, 235, 636, 637, 639, and 640.
Germany, No. 435.	Saxony, No. 236.
Greece, No. 325.	Sicilies (the Two), No. 316.
Hanover, No. 231.	Spain, No. 323.
India, Nos. 240, 348, 552, and 578.	Sweden, Nos. 327 and 354.
Jamaica, No. 660.	Tasmania, No. 860.
Lucca, No. 321.	Trinidad, 883.
Mexico, No. 496.	United States of America, Nos. 638, 646, 753, and 789.
Netherlands, No. 289.	Victoria, Nos. 186 and 359.
Newfoundland, No. 858.	Wurtemberg, No. 314.

To show the general interest taken in the subject of protection for inventions and the great efforts made throughout the country previous to 1852, to obtain legislative enactment on the subject, a list is here submitted of bills introduced into Parliament and of the leading societies and committees formed in various parts of the kingdom for that object.

Bills brought into the House of Commons between 1832 and 1852.

A Bill to explain and amend the laws respecting Letters Patent for Inventions. Feb. 1833.

A Bill to amend the laws respecting Letters Patent for Inventions, and to secure the property therein to Inventors. July 1833.

A Bill to further amend the laws respecting Letters Patent for Inventions, and to settle the practice and lessen the expense of obtaining the same. July 1833.

A Bill to amend the laws touching Letters Patent for Inventions. 1835.

A Bill to amend the law relating to Letters Patent for Inventions, and for the better encouragement of the arts and manufactures. June 1836.

A Bill to amend the practice relating to Letters Patent for Inventions, and for the better encouragement of the arts and manufactures. 1837.

A Bill to amend 5 & 6 Will. IV. intituled An Act to amend the Law touching Letters Patent for Inventions. 1839.

List of the leading Societies and Committees for the Promotion of Patent Law Reform in 1851.

Committee of the Society of Arts for legislative recognition of the rights of Inventors. 1850.

Art Protection Society for the amendment of the laws affecting Letters Patent, &c. 1850.

Manchester Patent Law Reform Association. 1848.

National Patent Law Amendment Association. 1851.

United Inventors Association for the amendment of the laws affecting Inventions. 1851.

Association of Patentees and Proprietors of Patents for the protection and regulation of Patent property. 1851.

Society for promoting scientific inquiries with social questions. Reform on Patent Laws. 1851.

Patent Law League. 1851.

Birmingham Patent Law Reform Association. 1850.

It is well known that all these societies agreed as to the more important reforms to be effected, and that the changes they suggested were substantially carried out by the Act of 1852.

As a proof of the general satisfaction given by the working of the new law it may be remarked that not one of these societies is known to survive to take part in the present agitation, and that, with the exception of the very important question of the trial of Patent causes,—a question more of a judicial than a ministerial character.

B.

THE COMMISSIONERS OF PATENTS' PUBLICATIONS.

Letters Patent for inventions were granted under the Act 21 James I., c. 3, until the 1st October 1852, when the "Patent Law Amendment Act, 1852," 15 & 16 Vict., c. 83, came into operation; and under this Act (together with the supplementary Acts 16 Vict., c. 5, and 16 & 17 Vict., c. 115,) Letters Patent for the United Kingdom have since been granted.

One of the conditions of the grant under the old Patent Law required the Patentee, within a limited time, to enrol a description or Specification of his invention in the High Court of Chancery. There was no provision for the printing of Specifications; and when a copy was required for legal or other purposes, only a manuscript copy could be obtained, and that at great expense.

The Patent Law Amendment Act authorized the Commissioners of Patents to print Specifications, Indexes, Disclaimers, and Memoranda of Alterations, and to sell the same. Accordingly, in May 1863, the work of printing the Specifications was begun.

On the 13th September 1853, an advertisement appeared in the "Times" newspaper to the effect that some hundreds of Specifications were in the press and would be published as

soon as the prices could be fixed. Shortly after this, the Queen's printers commenced the sale of printed Specifications at their printing office, and continued to sell them until the end of 1854.

From the 1st January 1855, the printed Specifications and other publications of the Commissioners of Patents have been sold at the Great Seal Patent Office.

By means of the printed Specifications, persons requiring office copies for evidence in courts of justice are enabled to obtain them at a cost which may be termed insignificant, when compared with the charges for manuscript copies under the old system, for the printed Specifications are sold at the cost price of the printing and paper, and the charge for certifying and sealing the office copy is but 1s. The only additional expense incurred is in cases where there are coloured drawings; and then the charge of the draughtsman for colouring the lithographic copies of the drawings must be paid.

As an average example, the accompanying certified printed copy of C. W. Siemens' Specification, No. 2,366, 8th November 1854, may be referred to. The cost of this certified copy (with one coloured sheet of drawing) is 8s. 8d. The items are as follows:

	s.	d.
Price of printed Specification	-	0 11
Charge for colouring drawing	-	6 9
Certificate stamp	-	1 0
	8	8

The expense of a manuscript official copy under the old system would be 7l. 6s.; the items being:

	£	s.	d.
Writing copy of Specification	-	3	0 0
Stamps and paper for ditto	-	0	14 0
Making and colouring drawing	-	3	10 0
Stamp for ditto	-	0	2 0
	7	6	0

By the printed copy, therefore, a saving of 6l. 17s. 4d. out of 7l. 6s. is effected, with the further advantage of great economy of time; for the certified printed copy could be had in a day, but the preparation of the manuscript official copy would occupy not less than a fortnight.

The accompanying certified printed copy of T. W. Gray's Specification, No. 1,090, 15th April 1862, is an example of the cheapest official copy that can be had. The price of the printed Specification (which has no drawing) is 4d. and the certificate stamp 1s., so that the whole cost of the copy is only 1s. 4d. This certified copy could be obtained with only two or three hours' notice, whereas the time required for a manuscript official copy under the old system would be more than two or three days, and the cost 1l. 14s. 10d., the charge for writing the copy of Specification being 1l. 4s., and the stamps and paper 10s. 10d.

The printed copy of T. Dunn's Specification, No. 751, 18th March 1862, also sent herewith, proves in a striking manner the advantage of printing Specifications. The price of this copy, with the enormous number of 104 drawings, is 2l. 13s. As all the drawings are uncoloured, a certified copy for evidence would only cost one shilling additional; and the time required for examination and comparison with the original Specification and drawings would not exceed two days. Now a manuscript official copy under the old system could not be procured (on account of the great number of drawings) in less than six months; and the cost would be 282l. 3s. 2d., as thus set forth:—

	£	s.	d.
Writing copy of Specification	-	8	8 0
Stamps and paper for ditto	-	3	7 2
Making drawings	-	260	0 0
Stamps for ditto	-	10	8 0
	£282	3	2

The printed Specifications are not only valuable as the means of supplying certified or official copies for evidence at a small cost and with great expedition, but they also enable the inventor, scientific men, or operative, at a very low price, to possess copies of the Specifications of any inventions in which he may be interested.

Copies of Specifications and other publications of the Commissioners of Patents are forwarded by post from the Great Seal Patent Office, on the receipt of the amount of price and postage; and of this privilege great numbers of persons avail themselves, each day's post bringing numerous

letters containing orders for Specifications, &c.,* and postage stamps or Post Office orders to pay for the same. In fact, so great has been the demand for some Specifications, that second editions, of 250 copies each, have in many cases been required, and even a third edition has been necessary, as in the case of W. H. Perkin's Specification, No. 1984, 26th August 1856, sent herewith.

Moreover, the printed copies of the different Specifications, when arranged in their proper numerical order (and accompanied by the indexes of Patents), are of great importance for reference by persons who are desirous of determining the novelty of an invention, or who wish to examine all the Specifications relating to a particular subject. In order, therefore, to diffuse the information contained in the Specifications as widely as possible, the Commissioners of Patents have presented complete sets of their works to the following places in the United Kingdom, on condition that they shall be rendered daily accessible to the public for reference or for copying, free of all charge:—

Aberdeen (*Public Library, Town House*).
 Accrington (*Mechanics' Institution, Bank Street*).
 Belfast (*Queen's College*).
 Beverley (*Guildhall*).
 Birmingham (*Birmingham and Midland Institute, Cannon Street*).
 Bolton-le-Moors (*Public Library, Exchange Buildings*).
 Blackburn (*Town Hall*).
 Bradford, Yorkshire (*Borough Accountant's Office, Corporation Buildings, Swain Street*).
 Brighton (*Town Hall*).
 Bristol (*City Library King Street*).
 Burnley (*Office of the Burnley Improvement Commissioners*).
 Bury.
 Cambridge (*Free Library, Jesus Lane*).
 Canterbury (*Municipal Museum, Guildhall Street*).
 Carlisle (*Public Free Library, Police Office*).
 Chester (*Town Hall, Northgate Street*).
 Cork (*Royal Cork Institution, Nelson Place*).
 Crewe (*Railway Station*).
 Darlington (*Mechanics' Institute, Skinnergate*).
 Dorchester.
 Drogheda.
 Dublin (*Royal Dublin Society, Kildare Street*).
 Dundalk (*Free Library*).
 Falmouth (*Public Library, Church Street*).
 Gateshead (*Mechanics' Institute*).
 Gorton (*Railway Station*).
 Glasgow (*Stirling's Library, Miller Street*).
 Grimsby, Great (*Mechanics' Institution, Victoria Street*).

* As an example, the orders by post received on Tuesday, December 2, 1862, are here given:—

Messrs. Cocker, Brothers	Sheffield	-	Specification	1,085	(1862)
Mr. T. Whittaker	Nottingham	-	Specifications	2,874	(1857)
"	"	"	"	661	(1858)
"	"	"	"	120	(1860)
"	"	"	"	1,690	(1861)
Mr. W. Fiskin	Newcastle-on-Tyne	-	Specification	1,221	(1862)
Messrs. Leonard and Lindley	Nottingham	-	Specification	957	(1862)
Mr. W. Tasker	Halifax	-	Specification	1,733	(1857)
Messrs. Thomas Rowatt & Son	Edinburgh	-	Patent Acts, &c.		1852
Mr. Charles Kendall	Bromley, Middx.	-	Specification	1,078	(1862)
Mr. Robert Musket	Cheltenham	-	Specification	1,262	(1862)
Messrs. John Knight & Co.	Kidderminster	-	Specification	815	(1862)
Mr. J. G. Hey	Cleckheaton	-	Specifications	592	(1852)
"	"	"	"	192	(1853)
"	"	"	"	677	(1853)
"	"	"	"	2,466	(1854)
"	"	"	"	1,812	(1855)
"	"	"	"	1,393	(1856)
"	"	"	"	2,449	(1856)
"	"	"	"	1,288	(1859)
"	"	"	"	592	(1860)
"	"	"	"	866	(1860)
"	"	"	"	1,317	(1860)
"	"	"	"	3,161	(1860)
"	"	"	"	2,401	(1861)
Mr. Peter J. Linsey	Manchester	-	Specification	79	(1853)
"	"	"	"	261	(1854)
Mr. William Jackson	Oldham	-	Specification (doffing comb)		
Mr. James Wright	Glasgow	-	Specification	1,256	(1862)
"	"	"	"	1,280	(1862)
Messrs. J. Petrie & Co.	Rochdale	-	Specifications	1,143	(1862)
"	"	"	"	1,190	(1862)
Mr. W. H. Preese	Southampton	-	Specifications	11,849	O.S.
"	"	"	"	70	(1862)
"	"	"	"	2	copies.
Mr. John Roeliff	Burnley	-	Specification	1,585	(1862)
Mr. John Tatham	Rochdale	-	Specifications	791	(1862)
"	"	"	"	797	(1862)
Mr. Thomas Sutton	Jersey	-	Specifications	3,080	(1861)
"	"	"	"	3,144	(1861)
"	"	"	"	23	(1862)
"	"	"	"	95	(1862)
"	"	"	"	123	(1862)
"	"	"	"	243	(1862)
"	"	"	"	253	(1862)
"	"	"	"	288	(1862)
"	"	"	"	322	(1862)
"	"	"	"	325	(1862)
"	"	"	"	429	(1862)

Halifax.

Hanley, Staffordshire Potteries (*Town Hall*).
 Hartlepool, West (*Literary and Mechanics' Institution, Church Street*).
 Hertford (*Free Public Library, Town Hall*).
 Huddersfield (*Improvement Commissioners' Offices, South Parade*).
 Hull (*Mechanics' Institute, George Street*).
 Ipswich (*Museum Library, Museum Street*).
 Keighley (*Mechanics' Institute, North Street*).
 Kidderminster (*Public Free Library, Public Buildings, Vicar Street*).
 King's Lynn, Norfolk (*Stanley Library Athenæum*).
 Lancaster (*Mechanics' Institute, Market Street*).
 Leamington Priors (*Public Library, Town Hall*).
 Leeds (*Town Clerk's Office, Town Hall*).
 Leicester (*Corporation Library, Town Hall*).
 Limerick (*Town Hall*).
 Liverpool (*Free Public Library, Duke Street*).
 London (*British Museum*).
 ——— (*Society of Arts, John Street, Adelphi*).
 Macclesfield (*Useful Knowledge Society*).
 Maidstone (*Free Library*).
 Manchester (*Free Library, Camp Field*).
 Montrose (*Free Library*).
 Newark, Nottingham (*Mechanics' Institute, Middle Gate*).
 Newcastle-upon-Tyne (*Literary and Philosophical Society*).
 Newport, Monmouth (*Commercial Room, Town Hall*).
 Northampton.
 Norwich (*Free Library, St. John's Maddermarket*).
 Nottingham (*Corporation Rooms, St. Peter's Church Side*).
 Oldham (*Town Hall*).
 Oxford (*Public Free Library, Town Hall*).
 Paisley (*Government School of Design, Gilmour Street*).
 Plymouth (*Mechanics' Institute, Princess Square*).
 Preston, Lancashire (*Dr. Shepherd's Library, the Institution, Avenham*).
 Reading (*Literary, Scientific, and Mechanics' Institution, London Street*).
 Rochdale (*Commissioners' Rooms, Smith Street*).
 Rotherham (*Board of Health Offices, Howard Street*).
 Salford (*Royal Museum and Library, Peel Park*).
 Sheffield (*Free Public Library, Surrey Street*).
 Shrewsbury (*Public Museum, College Street*).
 Southampton (*Corporation Library, Audit House*).
 Stirling (*Burgh Library, Town House, Broad Street*).
 Stockport Court House, Vernon Street, Warren Street).
 Sunderland (*Corporation Museum, Athenæum, Fawcett Street*).
 Tiverton.
 Wakefield (*Mechanics' Institution, Barstow Square*).
 Warrington (*The Museum and Library*).
 Waterford (*Town Hall, The Mall*).
 Wednesbury (*Board of Health Offices*).
 Wexford (*Mechanics' Institute, Crescent Quay*).
 Wigan.
 Wolverhampton (*School of Practical Art, Darlington Street*).
 Wolverton (*Railway Station*).
 Yarmouth, Norfolk (*Public Library, South Quay*).
 York (*Lower Council Chamber, Guildhall*).

British Colonies.

Malta.
 Cape of Good Hope.
 Mauritius.
 India—Bengal.
 North-West Provinces.
 Madras.
 Bombay.
 Ceylon.
 Newfoundland.
 Canada—Library of Parliament, Quebec.
 Patent Office, Toronto.
 Board of Arts and Manufactures for Lower Canada, Montreal.
 Victoria—Patent Office, Melbourne.
 Parliamentary Library, Melbourne.
 Public Library, Melbourne.
 New South Wales.
 South Australia.
 Tasmania.
 New Zealand.
 Nova Scotia.
 New Brunswick.
 Prince Edward Island.
 Antigua.
 Barbados.
 Jamaica.
 Trinidad.
 British Guiana.

Foreign States.

Austria—Handels Ministerium, Vienna.
 Bavaria—Königliche Bibliothek, Munich.
 Belgium—Ministère de l'Intérieur, Brussels.
 France—Bibliothèque Impériale, Conservatoire des Arts et Métiers, Hôtel de Ville, Société Industrielle de Mulhouse. } Paris.
 Gotha—Ducal Friedenstein Collection.
 Hanover—Ministerium des Innern, Hanover.
 Netherlands—Ministère de l'Intérieur, The Hague.
 Prussia—Handels Ministerium, Berlin.
 Königliche Bibliothek, Berlin.
 Russia—Bibliothèque Impériale, St. Petersburg.
 Sardinia—Ufficio delle Privative, Turin.
 Saxony—Polytechnische Schule, Dresden.
 Spain—Madrid.
 Sweden—Stockholm.
 United States—The Patent Office, Washington.
 The Astor Library, New York.
 The State Library, Albany.
 The Franklin Institute, Philadelphia.
 The Free Library, Boston.
 The Philadelphia Library Company.
 Wurtemberg—Bibliothek des Musterlagers, Stuttgart.

It may be here remarked that a set of the Patent publications is of considerable value and magnitude, the whole forming the largest serial scientific work in the world. The cost of printing a single set is more than 1,450*l*. The number of Specifications contained in a set, including those printed to the 22nd November 1862 (the last No. being 1,134 of this year), is 43,458. This amount is made up as follows: Specifications under old law, 13,561. New law: 1852, 1,211; 1853, 3,045; 1854, 2,764; 1855, 2,958; 1856, 3,106; 1857, 3,200; 1858, 3,007; 1859, 3,000; 1860, 3,196; 1861, 3,276; 1862, 1,134. Total, 43,458.

The 43,458 Specifications, when bound, would make 1,711 volumes of moderate thickness. In the free public library at the Great Seal Patent Office the Specifications composing the set devoted to the use of the public are not bound, but are placed in their proper numerical order in 1,711 cardboard cases of imperial 8vo. size. These cases have cloth sides and leather backs, are suitably labelled on the back to indicate the contents, and are arranged on the library shelves in the same manner as bound volumes. This plan of preserving the Specifications for reference has been adopted by several of the libraries to which sets of the Commissioners' works have been presented.

The grant of a set of the Commissioners of Patents' publications includes all the works which may be printed in continuation; and thus the libraries before referred to receive, by weekly deliveries, an annual addition of publications amounting in value to nearly 100*l*., and comprising, besides the Indexes of Patents, Abridgments, Commissioners of Patents' Journals, &c., more than 3,000 Specifications.

In order that reference may be made with the greatest facility to the Specifications of any particular inventions or classes of inventions, Chronological, Alphabetical, and Subject-matter Indexes of Patents have been prepared and printed. In the Chronological Index the titles of Patents appear in chronological order and numbered consecutively; the Alphabetical Index contains the names of Patentees arranged alphabetically; and in the Subject-matter Index the various classes of inventions are placed under their proper heads, so as to afford the means of readily referring to any invention or inventions. The Chronological, Alphabetical, and Subject-matter Indexes under the old law extend from the earliest period to the commencement

The Commissioners' Publications have been presented also to the following Public Offices, Seats of Learning, Societies, British Colonies, and Foreign States:—

Public Offices.

Admiralty—Department of the Surveyor of the Navy.
 ——— Steam Branch. Sheerness Dockyard.
 ——— Deptford Dockyard. Portsmouth ditto.
 ——— Woolwich ditto. Devonport ditto.
 ——— Chatham ditto. Pembroke ditto.
 Artillery Institute, Woolwich.
 Board of Trade, Whitehall.
 Ordnance Office, Pall Mall.
 ——— Small Arms' Factory, Enfield.
 War Office, Pall Mall.
 India Office.
 Government Schools of Mines, &c., Jermyn Street, Piccadilly.
 Dublin Castle, Dublin.
 Rolls' Office, Chancery (Four Courts), Dublin.
 Office of Chancery, Edinburgh.

Seats of Learning and Societies.

Cambridge University. Queen's College, Galway.
 Trinity College, Dublin. University College, London.
 Incorporated Law Society, Chancery Lane, London.

of the new law (1st October 1862); and in addition to these indexes, there is a reference index, pointing out the office where each Specification may be found, and the books in which Specifications, law proceedings, and other subjects connected with inventions have been noticed or reported. Under the new law separate Chronological, Alphabetical, and Subject-matter Indexes are prepared for each year.

The Chronological, Alphabetical, Subject-matter, and Reference Indexes to the Patents granted under the old law were purchased (in accordance with the Act 16 Vict., c. 5.) of Mr. Bennet Woodcroft, the Superintendent of Specifications, who had prepared the same for his own private use long before the passing of the "Patent Law Amendment Act, 1852."

An important and highly useful series of works remains to be noticed, namely the Abridgments of Specifications. Each volume contains abstracts or abridgments of one class of inventions only, and so arranged as to form a Chronological, Subject-matter, Reference, and Alphabetical Index to that class. Moreover, the abridgments are sold at prices so moderate as to enable the humblest inventor to examine for himself whether his discovery has been previously patented or not.

A journal, entitled "The Commissioners of Patents' Journal" is published on the evenings of Tuesday and Friday in each week. It contains lists of

- Applications for Letters Patent.
- Grants of provisional protection for six months.
- Inventions protected for six months by the deposit of a complete Specification.
- Notices to proceed.
- Patents sealed.
- Patents extended.
- Patents cancelled.
- Patents on which the third year's stamp duty has been paid.
- Patents which have become void by non-payment of the stamp duty of 50*l.* before the expiration of the third year.
- Patents on which the seventh year's stamp duty has been paid.
- Patents which have become void by non-payment of the stamp duty of 100*l.* before the expiration of the seventh year.
- Colonial Patents and Patent Law.
- Foreign Patents and Patent Law.
- Official advertisements and notices of interest to Patentees and inventors generally.

A specimen case, of the kind used in the library at the Great Seal Patent Office for holding Specifications, is sent herewith, containing:—

- A list of the works printed by order of the Commissioners of Patents.
- Specimen labels for the backs of cases.
- Statement of plans for the preservation or binding of Specifications.
- Price lists of printed Specifications. Old and new law, from the earliest period to the end of the year 1860.
- Pamphlet containing copies of the Acts 15 & 16 Vict. c. 83, 15 Vict. c. 5, and 16 & 17 Vict. c. 115, together with the Rules and Regulations of the Commissioners of Patents.
- Annual Reports of the Commissioners to Parliament for the years 1852-3, 1854, 1855, 1856 1857, 1858, 1859, 1860, and 1861.
- Report of the Commissioners of Patents to the Treasury on the subject of building a Patent Office, library, and museum.

C.

EXTRACT from the 9th ANNUAL REPORT OF THE ROYAL MUSEUM AND LIBRARY OF SALFORD; also a Table furnished by the Librarian, showing the number of references made to the Commissioners' Publications in the years 1854-57.

The specifications of Patents, presented as they are issued by the Honourable the Commissioners of Patents, have been referred to by Patentees and others to a considerable extent; in fact, this collection has become a valuable acquisition to the Salford Library, both from the readiness and facility with which it can be consulted, and from the important information which it supplies. It now numbers 22,946 Specifications, the sale value of which amounts to 782*l.* 8*s.* 7*d.* These have been placed on the shelves in two great divisions of old and new law; the former arranged in numerical order, at present unbound, and the latter (averaging 100 volumes for each year since 1852) bound.

The number of references to the Patents, from May 1855 to the end of October 1857, has been 12,419, and those for the last 12 months number 7,194.

REFERENCES TO THE SPECIFICATIONS OF PATENTS.

	1854-5.	1855-6.	1856-7.
November - - -	—	238	388
December - - -	—	196	281
January - - -	—	308	607
February - - -	—	95	634
March - - -	—	338	504
April - - -	—	357	640
May - - -	153	292	892
June - - -	409	456	423
July - - -	267	501	1,132
August - - -	311	341	491
September - - -	122	392	477
October - - -	344	105	725
	1,606	3,619	7,194

Total 12,419 volumes referred to in 30 months, including indexes.

Average 410 volumes monthly.

D.

TABLE extracted from THE EIGHTH ANNUAL REPORT (for 1860) on the working of the FREE LIBRARY, CAMP FIELD, MANCHESTER.

SPECIFICATIONS OF PATENTS.

Subjects referred to and number of references for the years ending September 5th 1857, 1858, 1859, and 1860, respectively.

Subjects referred to.	Number of References.			
	1860.	1859.	1858.	1857.
Adhesive substances - - -	149	144	—	141
Agriculture - - -	47	118	242	622
Air engines - - -	97	—	—	—
Alarums, snarcs, &c. - - -	—	4	38	—
Building materials and processes - - -	567	1342	1,326	941
Bearings, wheels, &c. - - -	3	235	748	363
Brewing and distilling - - -	176	15	152	286
Brush making, &c. - - -	7	—	24	—
Boots, shoes, clogs, &c. - - -	54	181	—	256
Chemical compositions - - -	283	1829	355	—
Clocks and watches - - -	7	74	340	—
Cutting and working wood - - -	3	209	176	—
Coaches and other road conveyances - - -	—	—	—	160
Drawing, &c. - - -	111	—	—	—
Dyeing and colouring - - -	625	692	260	257
Engraving and printing - - -	266	1,162	420	1,069
Electricity and galvanism - - -	99	217	98	—
Embossing, gilding, &c. - - -	66	2	76	53
Fire-arms - - -	43	343	8	—
Gas manufacture - - -	660	8,785	718	264
Grinding, &c. - - -	10	—	254	—
Glass - - -	89	—	192	—
Hoisting machines - - -	13	115	602	168
Household furniture - - -	85	—	—	—
India-rubber and gutta-percha - - -	269	63	258	449
Light and lighting - - -	376	9	286	—
Locks and keys - - -	69	—	100	184
Medical treatment - - -	325	—	—	—
Metals and metallic substances - - -	583	198	1,061	2,197
Motive power and propulsion - - -	1797	221	437	1,243
Measuring and numbering - - -	—	4	258	490
Metals, cutting and working - - -	20	204	202	—
Musical instruments - - -	—	268	320	100
Manure - - -	230	21	—	—
Nails and screws - - -	193	8	119	195
Oleaginous substances - - -	386	1,094	2,466	1,429
Paper-making - - -	57	36	686	1,190
Preserving and cooking - - -	—	24	120	—
Prevention of accidents - - -	—	—	187	276
Packing and pressing - - -	2	46	116	—
Paint and painting - - -	3	—	109	—
Paving and road-making - - -	5	—	50	—
Railways and railway rolling stock - - -	1154	839	1,295	2,185
Refrigerating and cooling - - -	91	40	26	—
Steam and steam engines - - -	2834	2,717	3,169	728
Smoke prevention - - -	145	1,056	1,878	206
Sewing machines - - -	2514	1,100	626	578
Soap manufactures - - -	339	256	320	97
Ship building and navigation - - -	20	1	26	—
Stone working - - -	5	8	73	—
Sugar - - -	169	1,792	—	—
Sundries under various other classes - - -	—	440	28	509
Textile fabrics, and processes connected therewith - - -	9313	8,414	6,261	1,639
Tools for mechanical purposes - - -	108	202	839	64
Tanning and currying - - -	30	2	250	250
Telegraphs and signals - - -	1865	100	120	503
Tar, pitch, and resin - - -	29	1	113	48
Trunks, boxes, bags, &c. - - -	6	—	120	65
Type founding - - -	1	20	—	—
Umbrellas - - -	105	230	—	—
Ventilation - - -	312	23	—	120
Water and other fluids, conducting and filtering - - -	232	525	326	1,462

Subjects referred to.	Number of References.			
	1860.	1859.	1858.	1857.
Waterproofing, &c. - - - -	123	—	—	—
Working of pearl, ivory, bone, &c. -	—	34	47	—
Wearing apparel - - - - -	95	26	—	100
Miscellaneous (being unbound the)	1912	1,533	—	—
classification could not be taken }				
	29,241	36,972	27,856	20,877

Number of Patents granted during the last two years and nine months of the Old Law.

Year.	Patents Granted.	Imported from Abroad.
1850	512	85
1851	468	60
1852	469	88
(9 months.)		

E.

Number of Patents granted from October 1st, 1852, to December 31st, 1861.

TABLES furnished at the REQUEST of VICE-CHANCELLOR WOOD.

Number of disclaimers and memorandum of alterations enrolled during the last two years and nine months of the old law:—

Year.	Number.
1850 - - - - -	18
1851 - - - - -	22
1852 (9 months) - - - - -	18
New Law.	
1852 - - - - -	7
1853 - - - - -	15
1854 - - - - -	9
1855 - - - - -	12
1856 - - - - -	8
1857 - - - - -	13
1858 - - - - -	9
1859 - - - - -	6
1860 - - - - -	2
1861 - - - - -	3

Year.	Patents Granted.	Imported from Abroad.
1852 (3 months.)	1,211	197
1853	3,045	606
1854	2,764	367
1855	2,958	825
1856	3,099	541
1857	3,200	801
1858	3,007	708
1859	3,000	545
1860	3,196	632
1861	3,276	884

Number of Patents repealed by scire facias from 1617 to October 1852 - - - - - 19
Number of Patents repealed by scire facias from October 1852 to December 1861 - - - - - None.

RETURN of the number of OBJECTIONS filed in the Office of the Commissioners of Patents for Inventions on the Applications for Letters Patent of each Year, 1852 to 1861 inclusive.

Objections to Grant of Letters Patent before the Law Officer.				Objections to sealing Letters Patent before the Lord Chancellor.				
Years.	Objections allowed.	Objections disallowed.	Application for Letters Patent abandoned.	Objections allowed.	Objections disallowed.	Application for Letters Patent abandoned.	Objections pending.	TOTAL.
1852	5	60	4	1	3	-	-	73
1853	11	108	12	1	4	-	-	136
1854	5	56	6	-	2	-	-	69
1855	7	41	1	1	6	1	-	57
1856	7	49	5	1	4	-	-	68
1857	4	44	6	-	2	-	-	56
1858	3	41	4	-	1	-	-	49
1859	2	41	-	-	1	-	-	48
1860	3	31	4	-	1	-	1	40
1861	7	21	2	-	2	-	-	32

TABLE showing the number of PATENTS granted by various STATES during the last TWENTY YEARS.

Year.	Great Britain.				France.	United States.		Belgium.	Austria.	Italy.	Saxony.	Prussia.	Sweden and Norway.	Wurtemberg.	Bavaria.	Hanover.	Russia.	Netherlands.	Baden.	Grand Duchy Hesse.
	Applications for Patents.	Patents sealed.	Paid Stamp Duty of £50.	Paid Stamp Duty of £100.		Application for Patents.	Patents granted.													
1842	-	371	-	-	-	761	517	From 1830 to 1854.	-	-	-	-	36	-	-	-	-	-	-	-
1843	-	420	-	-	-	819	531	-	-	-	12	55	41	25	77	12	-	-	-	14
1844	-	450	-	-	722	1,045	502	-	-	-	10	67	50	22	125	4	-	-	-	-
1845	-	572	-	-	2,666	1,246	502	-	-	-	16	72	50	22	124	6	-	-	-	-
1846	-	493	-	-	2,750	1,272	619	-	-	-	31	55	58	18	112	-	-	-	-	-
1847	-	493	-	-	2,937	1,531	572	7,497	-	-	30	78	69	12	155	10	-	-	-	-
1848	-	383	-	-	1,191	1,623	660	-	-	-	29	72	50	8	97	16	-	-	-	-
1849	-	514	-	-	1,953	1,955	1,076	-	-	-	29	80	70	6	97	8	28	-	-	-
1850	-	513	-	-	2,272	2,183	995	-	-	-	39	87	67	16	115	11	10	-	-	-
1851	-	455	-	-	2,462	2,258	869	-	-	-	49	57	61	26	97	16	32	-	-	-
1852	Jan. to Oct.	470	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Oct. to Decr.	1,211	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1852	3,045	319	110	3,279	2,639	1,020	958	From 1854 to 1861.	406	-	73	82	79	16	77	8	26	-	9	-
1853	2,764	618	202	4,065	2,673	1,802	1,902	-	491	-	-	84	81	17	36	23	27	-	10	-
1854	2,958	510	192	4,538	2,624	2,024	2,024	-	534	224	78	63	86	29	36	15	47	-	12	-
1855	3,106	558	-	4,761	2,502	2,502	2,502	-	645	199	120	67	73	38	52	25	32	-	8	-
1856	3,200	567	-	6,110	4,771	2,910	-	-	715	221	120	63	64	54	41	29	26	-	25	-
1857	3,007	583	-	5,128	5,364	3,710	11,941	-	719	170	106	66	41	42	36	32	-	45	27	-
1858	3,000	540	-	5,439	6,225	4,538	-	-	654	139	112	44	87	46	43	49	-	23	30	-
1859	3,196	2,051	-	6,122	7,653	4,819	-	-	468	183	131	84	70	65	61	58	-	42	38	-
1861	3,276	2,047	-	5,941	4,643	3,340	-	-	569	224	134	102	99	-	51	59	-	42	28	-

F.

RESULTS of the EXAMINATION of the first hundred inventions for which applications for Patents were made in each of the years 1855, 1858, and 1862.

A.D. 1855.

Of the first hundred inventions for which applications for Patents were made in the year 1855, none are apparently of considerable value; but I believe it to be impossible to predict beforehand the value of any invention.

Four of the hundred inventions appear to be of some, but not of great value, and Patents were granted for all of them.

One of these Patents expired at the end of the third year of the grant, and two at the end of the seventh year; and consequently only one continues in force.

The remaining 96 of the hundred inventions seem to be of little or no value; and Patents were granted for 66 of them. One of these Patents became void at the end of the term of six months from the date thereof for want of a final Specification; 50 expired at the end of the third year of the grant, and 13 at the end of the seventh year; and consequently only two continue in force. Patents were not obtained for the remaining 30 of the 96 inventions.

It may be further remarked, that 16 of the above-mentioned 96 inventions are on the face of them old; six partly old; and others might be found to be old on examination; and one for giving circular motion to a shaft, although new, is costly, complicated, and utterly unfit for use.

Complete Specifications were filed with the applications in two cases only out of the hundred applications for Letters Patent.

A.D. 1858.

Of the first hundred inventions for which applications for Patents were made in the year 1858, none are apparently of considerable value.

Three of the hundred inventions appear to be of some but not of much value; and Patents were granted for all of them; but these Patents expired at the end of the third year of the grant.

The remaining 97 of the hundred inventions seem to be of little or no value; and Patents were granted for 62 of them. 48 of these Patents expired at the end of the third year of the grant, and 14 continue in force, but have not yet reached the seventh year of the term. Patents were not obtained for the remaining 35 of the 97 inventions.

Fourteen of the above-mentioned 97 inventions are obviously old; one partly old; many more on examination might be found to be old; one for making curtains and wall hangings of india-rubber is of a ridiculous character; and one ought not to have formed the subject of Letters Patent, but should have been registered under the Designs Act.

Complete Specifications were filed with the applications in two cases only out of the hundred applications for Letters Patent.

A.D. 1862.

Of the first hundred inventions for which applications for Patents were made in the year 1862, one is apparently of considerable value; and a Patent was granted for it, which is still in force.

Of the same hundred inventions one appeared to be of some but not of great value; and a Patent was granted for it, which also is still in force.

The remaining 98 of the hundred inventions seem to be of little or no value. Patents were granted for 59 of them, but not for the other 39. Three of these Patents became void at the end of the term of six months from the date thereof, for want of a Final Specification. Fifty-six Patents are consequently still in force, but have not yet reached the third year of the term.

Seven of the before-mentioned 98 inventions are old; others, on examination, might be found to be so; one is for an absurd mode of lubricating axles; and one is a scheme for a perpetual motion.

A Complete Specification was filed with the application in one case only out of the hundred applications for Letters Patent.

In our own country the probability is that many of the greatest improvements in arts, manufactures, and locomotion, would not to this hour have been brought into actual operation had preliminary examination been adopted.

In the following cases I wish it to be understood that I believe that almost all the Patentees were the true inventors of what they brought into operation, but they were not the first inventors; still it is from the second inventors the public has been so greatly benefited:—

Richard Arkwright's spinning frame was anticipated by that of Lewis Paul.

James Nasmyth's steam hammer was anticipated by that proposed and patented by James Watt.

Francis Petit Smith's screw propeller was anticipated by that proposed and patented by Charles Cummerow.

Francis Ronalds transmitted messages by electricity through eight miles of wire in the year 1816.

Messrs. Ruthven's method of propelling vessels by the discharge of water had formed the subject of an invention for which William Busk obtained a Patent.

Franz Uchatius' improvement in the manufacture of cast steel was anticipated by the invention of John Wood, patented more 90 years before.

Thomas Aldridge Weston's improved pulley, or system of pulleys, had been invented many years previous by Mr. Moore, and described in Carpenter's Mechanical Philosophy.

Numerous other cases could be given of great inventions which never had been used, or that had fallen into disuse, but which were revived by subsequent inventors.

To meet cases of this sort the clause (sect. II.) introduced by Lord Brougham into the Act 5 and 6 Will. IV., cap. 83, seems to have been too little acted upon.

G.

PRUSSIAN PATENTS.

On the 8th July 1853, a circular of inquiry relating to an amendment of the Prussian Patent Law was addressed by the Minister of Commerce, Trades, and Public Works, to various provincial governments and chambers of commerce in Prussia.

The most important question contained in the circular was whether previous examination before the grant of a Patent should be continued, or whether Patents should be granted without preliminary examination, leaving such investigation to be made when the Patent should be disputed.

The Chamber of Commerce at Berlin, the only one whose reply has been printed, was very decided in its condemnation of preliminary examination before the grant of a Patent.

The number of Patents applied for and granted in Prussia during each of the years 1860, 1861, and 1862, was as follows:

Year.	Applications.	Grants.
1860	974	83
1861	931	102
1862	973	75
Total in 3 years	2,878	250

Patents were, therefore, granted to only about 11 per cent. of the applications.

It is not unfrequently the case that the Royal Board of Examiners, who report to the Minister of Commerce, Trade, and Public Works upon the novelty of an invention in the first instance before a Patent granted, subsequently find the invention to be old; and on their making a further report, to that effect, the Patent is cancelled.

The following copies of translations of documents relating to Prussian Patents show the process of granting and annulling or repealing Patents in Prussia:

1. Patent refused for want of novelty.
2. Patent refused for want of novelty.
3. Offer of Patent on certain conditions.
4. Delivery of Patent cannot take place on account of prior publication of the invention.
5. Copy of Patent.
6. Summons to produce evidence that the Patent has been worked.
7. Prolongation of the term within which the Patent must be worked.
8. Second summons to produce evidence that the Patent has been worked.
9. Annulment of Patent for want of evidence that it has been worked.
10. Annulment of Patent for want of evidence that it has been worked within the prolonged term.
11. Annulment of Patent for want of novelty.

[1. Patent refused for want of novelty.]

Translation.

According to the opinion of the Royal Board of Examiners, the process of separating silver from lead, as described in

your annexed application of the 22d November ult., is a combination of operations which have already been applied separately to the same object, and, therefore, according to the existing principles, cannot be considered as new and patentable.

Consequently your application for a Patent cannot be taken into consideration.

Berlin, 22d Feb., 1863.

Board of Commerce, Trades, and Public Works.
IV. Section.

[2. Patent refused for want of novelty.]

Translation.

In reply to your annexed application for the Patent, dated 20th Dec. ult., you are informed that the Royal Board of Examiners are of opinion that neither the manufacture of crystallized chloride of lime, nor the use of said salt for deadening or fading colours, as described therein, present any novel or peculiar feature.

Consequently the Patent applied for cannot be granted.

Berlin, 2d Feb. 1863.

Board of Commerce, Trades, and Public Works.
IV. Section.

[3. Offer of Patent on certain conditions.]

Translation.

From the report made by the Royal Board of Examiners on your application for a Patent, dated 17th ult., it appears that night signals produced by an intermittent concealment of the illuminating body, abstractedly speaking are well known. Irrespectively, however, of this, your signal-apparatus for telegraphing at night, and especially the mechanism for transmitting the rotary motion of the wooden cylinder provided with projections, on the lever apparatus operating the lift and descent of the screen, must be recognized as new and peculiar.

You shall therefore obtain a Patent for

"A signal apparatus for night telegraphs as illustrated by a drawing and description, and as far as the same has been ascertained to be new and peculiar, without preventing others from using known parts thereof" for the term of five years throughout the Prussian Monarchy, provided you are willing to accept such a grant under those conditions. Your decision on that point must be delivered within four weeks.

The other day signals, as proposed by you, do not exhibit any novelty in principle, nor any improvements in practice of such like known arrangements; for said signals, therefore, you cannot obtain a patent.

Berlin, 23 December 1862.

The Minister of Commerce, Trade, and Public Works.

By order,

(Signed) DELBRUCK.

[4. Delivery of Patent cannot take place, on account of prior publication of the invention.]

Translation.

According to a communication made by the Royal Board of Examiners, the whole arrangement of the centrifugal drying machine, as described in your application for a Patent of the 18th June A. C., has been completely published by drawing and description in the *London Journal of Arts and Sciences*, p. 341, June 1862. Thus the supposition that the arrangement of suspended plates in this machine for the reception of vessels containing the material about to be dried presented a novel and peculiar feature, on the ground of which supposition a Patent for that part of the machine was offered to you on the 15th of last month, holds no longer good, and consequently according to art. I of the convention concluded on the 21st September 1842, between the different States of the Zollverein, the delivery of the Patent cannot take place. In bringing this to your notice you are requested to apply for the return of the documents accompanying your petition of the 18th June A.C., and of the amount of one dollar sent in with your declaration of the 17th of last month.

Berlin, 4th Aug. 1862.

The Minister of Commerce, Trades, and Public Works.

(Signed) VON HOLZBRINK.

[5. Copy of Patent.]

Translation.

By the supreme consent of His Royal Highness the Prince Regent of Prussia, in the name of His Majesty the King, I grant the Patent applied for by Mr. J. H. F. Prillwitz, merchant of this town, for a machine for moulding candles as detailed by a description and drawing, without limiting other parties in using known parts of said machine.

The present Patent becomes valid from to-day for five consecutive years in the whole extent of the Prussian monarchy, the Patentee, however, being bound to fulfil all the conditions of the Proclamation of the 14th October 1815 relating to the grant of Patents, with the exception of s. 5 concerning its publication, which will be undertaken by the Government.

It is required most especially that the Patent machine should be put into practice in the Prussian monarchy within 12 months from the date of the present patent, and that such working should be attested by an official document under pain of forfeiture of the privilege.

The cancellation, moreover, of the Patent is reserved, in case it should not be worked for a whole year during its duration. On the other hand, the Patentee, by fulfilling said conditions, shall be protected everywhere in the exclusive enjoyment of his Patent during its legal term according to said Proclamation. No secrecy, however, about the Patent article is warranted to Mr. Prillwitz by said protection of the Government; the Patent, moreover, is to be considered as cancelled (expired) whenever it can be shown that the supposition of novelty and peculiarity on which the grant of the Patent is based has been erroneous.

Berlin, 23 October 1859.

The Minister of Commerce, Trade, and Public Works.

(L.S.) (Signed) VON DER HEYDT.

[6. Summons to produce Evidence that the Patent has been worked.]

Translation.

You are herewith requested to produce, within four weeks, the required evidence about the practical working of your twisting machine as Patented on the 21st Feb. of last year, in default of which the Patent will be declared to be extinct.

Berlin, 10th March 1862.

Ministry of Commerce, Trade, and Public Works.

IV. Section.

(Signed) HÖNE.

[7. Prolongation of the term within which the Patent must be worked.]

Translation.

In consideration of the circumstances adduced in your application of the 1st day of this month, the required prolongation of another year for producing evidence as to the actual working in the Prussian monarchy of your rotary press for conglomerating coal dust for fuel, as Patented 2nd April of last year, is herewith granted to you.

Berlin, 11th March 1862.

Ministry of Commerce, Trade, and Public Works.

IV. Section.

(Signed) HOENE.

[8. Second summons to produce evidence that the Patent has been worked.]

Translation.

With reference to the term of three months granted to you on the 1st December of last year, you are herewith requested to produce evidence as to the practical working of your brick machine, as patented on the 20th November 1860, within four weeks, at the latest, in default of which the Patent granted to you will be cancelled without further notice.

Berlin, 6th March 1862,

Ministry of Commerce, Trade, and Public Works.

IV. Section.

(Signed) HOENE.

[9. Annulment of Patent or want of evidence that it has been worked.]

Translation.

The Patent granted to you on the 20th November 1860 for a brick machine in its entire composition, as far as

according to drawing and description, the same has been deemed to be new and peculiar, and without preventing others from using known parts thereof, has been annulled agreeably to the proper warning to you, and in consequence of your having failed to produce evidence as to the working of the machine within the term granted to you on the 16th March of this year.

Berlin, 6 May 1862.

Ministry of Commerce, Trade, and Public Works.

By order

(Signed) DELBRUCK.

[10. Annulment of Patent for want of evidence that it has been worked within the prolonged term.]

Translation.

The Patent granted to you for an imported invention of "a freezing apparatus," as illustrated by a drawing and description, the entire combination of which has been found to be novel and peculiar, and without preventing other parties from using known parts thereof, has been cancelled according to the notice given to you on the 12th of July of last year, since you failed to give evidence as to the working of the Patent apparatus within the prolonged term up to the 15th of the present month.

The Minister of Commerce, Trades, and Public Works.

By order

(Signed) DELBRUCK.

Berlin, 28th January 1863.

[11. Annulment of Patent for want of novelty.]

Translation.

The Patent for an imported invention granted to you on the 1st of December 1858, for the term of five years, and bearing the following title:—

"An apparatus in presses for the manufacture of pressed
"lead pipes, and for tinning their inside,"

contains the provision that the Patent shall be considered as null and void (extinct), in case it should be shown that the supposition made in granting the same, viz., that the object was new and peculiar, or that it has first been introduced into the Prussian monarchy, or worked by you, has been erroneous.

According to a report made by the Royal Board of Examiners, said Patent apparatus is the same as has been Patented on the 28th January 1858 by John Henry Johnson, the Official Specification being published by the Patent Office, sub. No. 156, ann. 1858.

Now the mere fact (if known), of the Specification containing the complete drawing and description of said apparatus, having already long been published previous to the date of your Patent, would, according to provision I. of the convention concluded on the 21st September 1842, between the different States of the Zollverein, have sufficed for a rejection of your application. But it is shewn, moreover, thereby, that the apparatus had been brought to general public notice by a publication even previous to the day when the Patent was granted, and since, according to the express provision of said convention, Patents are not to be granted, even in case of their being applied for *previous* to such a publication, your appeal of the 28th March a.c. is not to be taken into consideration, but, on the contrary, said Patent for an important invention must be and is herewith cancelled, according to the provision contained therein, since the supposition made in granting the Patent of the 1st December of last year, viz., that the object was new and peculiar, and was not yet known in Prussia, proves to be erroneous.

Berlin, 4th May 1859.

The Minister of Commerce, Trades, and Public Works,

(Signed) VON DER HEYDT.

(2.)—APPENDIX to the EVIDENCE of MR. EDMUNDS.

APPENDIX A.

RULES AND REGULATIONS.

[*This Paper contains all the Rules and Regulations now in force.*—31st Dec. 1861.]

Patent Law Amendment Act, 1852.—Rules and Regulations under the Acts 15 & 16 Vict. c. 83, and 16 & 17 Vict. c. 115, for the passing of Letters Patent for Inventions.

PATENT LAW AMENDMENT ACT, 1852.

FIRST SET OF RULES AND REGULATIONS under the Act 15 & 16 Vict. c. 83., for the passing of Letters Patent for Inventions.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Frederic Thesiger Her Majesty's Attorney General, and Sir FitzRoy Kelly Her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act.

Whereas a commodious office is forthwith intended to be provided by the Crown as the Great Seal Patent Office; and the Commissioners of Her Majesty's Treasury have, under the powers of the said Act, appointed such office as the office also for the purposes of the said Act.

I. All petitions for the grant of Letters Patent, and all Declarations and Provisional Specifications, shall be left at the said Commissioners' office, and shall be respectively written upon sheets of paper of twelve inches in length by eight inches and a half in breadth, leaving a margin of one inch and a half on each side of each page, in order that they may be bound in the books to be kept in the said office.

II. The drawings accompanying Provisional Specifications shall be made upon a sheet or sheets of parchment, paper, or cloth, each of the size of twelve inches in length by eight inches and a half in breadth, or of the size of twelve inches in breadth by seventeen inches in length, leaving a margin of one inch on every side of each sheet.

III. Every provisional protection of an invention allowed by the Law Officer shall be forthwith advertised in the London Gazette, and the advertisement shall set forth the name and address of the petitioner, the title of his invention, and the date of the application.

IV. Every invention protected by reason of the deposit of a Complete Specification shall be forthwith advertised in the London Gazette, and the advertisement shall set forth

the name and address of the petitioner, the title of the invention, the date of the application, and that a Complete Specification has been deposited.

V. Where a petitioner applying for Letters Patent after provisional protection, or after deposit of a Complete Specification, shall give notice in writing at the office of the Commissioners of his intention to proceed with his application for Letters Patent, the same shall forthwith be advertised in the London Gazette, and the advertisement shall set forth the name and address of the petitioner and the title of his invention; and that any persons having an interest in opposing such application are to be at liberty to leave particulars in writing of their objections to the said application at the office of the Commissioners within twenty-one days after the date of the Gazette in which such notice is issued.

VI. The Lord Chancellor having appointed the Great Seal Patent Office to be the office of the Court of Chancery for the filing of Specifications, the said Great Seal Patent Office and the office of the Commissioners shall be combined; and the Clerk of the Patents for the time being shall be the Clerk of the Commissioners for the purposes of the Act.

VII. The office shall be open to the public every day, Christmas Day and Good Friday excepted, from ten to four o'clock.

VIII. The charge for office or other copies of documents in the office of the Commissioners shall be at the rate of twopence for every ninety words.

(Signed)

ST. LEONARDS, C.
JOHN ROMILLY, M.R.
FRED. THESIGER, A.G.
FITZROY KELLY, S.G.

Dated the 1st Oct. 1852.

PATENT LAW AMENDMENT ACT, 1852,
15 & 16 Vict. c. 83.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, and the Right Honourable Sir John Romilly Master of the Rolls.

Ordered, That there shall be paid to the Law Officers and to their clerks the following fees:

By the person opposing a grant of Letters Patent.

	£	s.	d.
To the Law Officer - - -	-	2	12
To his clerk - - -	-	0	12
To his clerk for summons - -	-	0	5

By the petitioner on the hearing of the case of opposition.

To the Law Officer - - -	£ s. d.
To his clerk - - -	- 2 12 6
To his clerk for summons - - -	- 0 12 6
	- 0 5 0

By the petitioner for the hearing, previous to the fiat of the Law Officer allowing a Disclaimer or Memorandum of Alteration in Letters Patent and Specification.

To the Law Officer - - -	- 2 12 6
To his clerk - - -	- 0 12 6

By the person opposing the allowance of such Disclaimer or Memorandum of Alteration, on the hearing of the case of opposition.

To the Law Officer - - -	- 2 12 6
To his clerk - - -	- 0 12 6

By the petitioner for the fiat of the Law Officer allowing a Disclaimer or Memorandum of Alteration in Letters Patent and Specification.

To the Law Officer - - -	- 3 3 0
To his clerk - - -	- 0 12 6

(Signed) ST. LEONARDS, C.
JOHN ROMILLY, M.R.

Dated the 1st Oct. 1852.

PATENT LAW AMENDMENT ACT, 1852,
15 & 16 VICT. c. 83.

Ordered by the Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain.

I. All Specifications in pursuance of the conditions of Letters Patent, and all Complete Specifications accompanying petitions and declarations before grant of Letters Patent, shall be filed in the Great Seal Patent Office.

II. All Specifications in pursuance of the conditions of Letters Patent, and all Complete Specifications accompanying petitions for the grant of Letters Patent, shall be respectively written bookwise upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in length by fourteen inches and three fourths of an inch in breadth; the same may be written upon both sides of the sheet, but a margin must be left of one inch and a half on every side of each sheet.

III. The drawings accompanying such Specifications shall be made upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in length by fourteen inches and three fourths of an inch in breadth, or upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in breadth by twenty-nine inches and a half in length, leaving a margin of one inch and a half on every side of each sheet.

IV. The charge for office or other copies of documents in the Great Seal Patent Office shall be at the rate of twopence for every ninety words.

(Signed) ST. LEONARDS, C.

Dated the 1st Oct. 1852.

NOTE.—It is recommended to applicants and patentees to make their elevation drawings according to the scale of one inch to a foot.

PATENT LAW AMENDMENT ACT, 1852.

SECOND SET OF RULES AND REGULATIONS under the Act 15 & 16 Vict. c. 83., for the passing of Letters Patent for Inventions.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Frederic Thesiger Her Majesty's Attorney General, and Sir FitzRoy Kelly Her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act.

I. The office of the Directory of Chancery in Scotland, being the office appointed by the Act for the recording of Transcripts of Letters Patent, shall be the office of the Commissioners in Edinburgh for the filing of copies of Specifications, Disclaimers, Memoranda of Alterations, Provisional Specifications, and certified duplicates of the Register of Proprietors.

II. All such transcripts, copies, and certified duplicates shall be bound in books, and properly indexed; and shall be open to the inspection of the public at the said office, every day from ten to three o'clock.

III. The charge for office copies of such transcripts, copies, and certified duplicates, recorded and filed in the said office, shall be at the rate of twopence for every ninety words.

IV. The Enrolment office of the Court of Chancery in Dublin, being the office appointed by the Act for the enrolment of transcripts of Letters Patent, shall be the office

of the Commissioners in Dublin for the filing of copies of Specifications, Disclaimers, Memoranda of Alterations, Provisional Specifications, and certified duplicates of the Register of Proprietors.

V. All such transcripts, copies, and certified duplicates shall be bound in books, and properly indexed, and shall be open to the inspection of the public at the said Enrolment Office every day, Christmas Day and Good Friday excepted, from ten to three o'clock.

VI. The charge for office copies of such transcripts, copies, and certified duplicates, enrolled and filed as aforesaid, shall be at the rate of twopence for every ninety words.

~~VII. No Warrant is to be granted for the sealing of any Letters Patent which contains two or more distinct substantive inventions.~~

VIII. A provision is to be inserted in all Letters Patent in respect whereof a Provisional and not a Complete Specification shall be left on the application for the same, requiring the Specification to be filed within six months from the date of the application.

IX. No amendment or alteration, at the instance of the applicant, will be allowed in a Provisional Specification after the same has been recorded, except for the correction of clerical errors or of omissions made *per incuriam*.

X. The Provisional Specification must state distinctly and intelligibly the whole nature of the invention, so that the Law Officer may be apprised of the improvement, and of the means by which it is to be carried into effect.

(Signed) ST. LEONARDS, C.
JOHN ROMILLY, M.R.
FRED. THESIGER, A.G.
FITZROY KELLY, S.G.

Dated the 15th Oct. 1852.

PATENT LAW AMENDMENT ACT, 1852,
15 & 16 VICT. c. 83.

Ordered by the Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain.

Every application to the Lord Chancellor against or in relation to the sealing of Letters Patent shall be by notice, and such notice shall be left at the Commissioners' Office, and shall contain particulars in writing of the objections to the sealing of such Letters Patent.

(Signed) ST. LEONARDS, C.

Dated the 15th Oct. 1852.

The Lord Chancellor (Lord Cranworth) and the Master of the Rolls, by the following Report, dated the 1st May 1853, for the reasons therein contained, reduced the scale of fees to be allowed to the Attorney and Solicitor General of England and their clerks.

Patent Law Amendment Act, 1852. 15 & 16 Vict. c. 83.

"To the Lords Commissioners of Her Majesty's Treasury.

"We, the Right Honourable Robert Monsey Lord Cranworth, Lord High Chancellor of Great Britain, and the Right Honourable Sir John Romilly, Master of the Rolls, being two of the Commissioners of Patents for Inventions under the above-mentioned Act,

"REPORT as follows:

"Whereas the Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain, and the Right Honourable Sir John Romilly, Master of the Rolls, did by their Report of the 13th day of December last, addressed to the Lords Commissioners of Her Majesty's Treasury, under the provisions of the 48th section of the said Act, appoint the following scale of fees to be paid to the Law Officers and their clerks, on passing Letters Patent for inventions, until further orders:

"Four guineas to the Law Officer on each reference for provisional protection, under section 8 of the Act.

"Four guineas to the Law Officer on each reference of Complete Specification on application for warrant, sections 9 and 12 of the Act.

"Ten shillings to the clerk of the Law Officer on each of the above references.

"Two guineas to the Law Officer on each warrant for Letters Patent:

"And the said Lord St. Leonards and Master of the Rolls did also in their said Report recommend that the Lord Chancellor and Master of the Rolls for the time being should meet at the end of every current year, and should report to the Treasury from time to time, whether in their opinion it is expedient that any of the fees in the said

Report recommended, or to be recommended by any future Report, should be varied or altered :

"And whereas it appears to us, from the number of applications recorded in the Commissioners' Office since the date of the said Report, that the fee payable to the Law Officer for the current year, upon the scale appointed by the said Report, will in the aggregate amount to a much larger sum than is reasonable and proper for the due remuneration of the said Law Officers and their clerks :

"Therefore, we do hereby appoint that, from and after the 15th day of May instant, the following fees shall be paid to the Law Officers and their clerks until further order, in lieu of the before-mentioned fees settled by the said former order, that is to say—

"Two guineas to the Law Officer on each reference for provisional protection, under section 8 of the Act.

"Two guineas to the Law Officer on each reference of Complete Specification on application for warrant, sections 9 and 12 of the Act.

"Five shillings to the clerk of the Law Officer on each of the above references.

"One guinea to the Law Officer on each warrant for Letters Patent."

The Lords Commissioners of Her Majesty's Treasury, by minute of the 17th May 1853, fully concurred in the propriety of reducing the scale of fees allowed to the Law Officers as recommended in the above Report, and thereby sanctioned the same.

PATENT LAW AMENDMENT ACT, 1852.

THIRD SET OF RULES AND REGULATIONS under the Act 15 & 16 Vict. c. 83., for the passing of Letters Patent for Inventions, and under the Act of the 16 & 17 Vict. c. 115.

By the Right Honourable Robert Monsey Lord Cranworth Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Alexander James Edmund Cockburn Her Majesty's Attorney General, and Sir Richard Bethell Her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act of the 15 & 16 Vict. c. 83.

It is ordered as follows :—

Rule VII. of the Second Set of Rules and Regulations of the Commissioners, dated the 15th October 1852, is hereby rescinded.

I. Every application for Letters Patent, and every title of invention and Provisional Specification, must be limited to one invention only, and no provisional protection will be allowed or warrant granted where the title or the Provisional Specification embraces more than one invention.

II. The title of the invention must point out distinctly and specifically the nature and object of the invention.

III. The copy of the Specification, or Complete Specification, directed by the Act 16 & 17 Vict. c. 115. sect. 3. to be left at the office of the Commissioners on filing the Specification or Complete Specification shall be written upon sheets of brief or foolscap paper, briefwise, and upon one side only of each sheet. The extra copy of drawings, if any, left with the same, must be made as heretofore, and according to the directions contained in Rule III. of the Lord Chancellor, dated the 1st October 1852.

IV. The copy of the Provisional Specification to be left at the office of the Commissioners on depositing the same shall be written upon sheets of brief or foolscap paper, briefwise, and upon one side only of each sheet. The extra copy of drawings, if any, left with the same, must be made as heretofore, and according to the directions contained in Rule II. of the Commissioners, dated the 1st October 1852.

V. All Specifications, copies of Specifications, Provisional Specifications, petitions, notices, and other documents left at the office of the Commissioners, and the signatures of the petitioners or agents thereto, must be written in a large and legible hand.

VI. In the case of all petitions for Letters Patent left at the office of the Commissioners after the 31st day of December 1853, the notice of the applicant of his intention to proceed for Letters Patent for his invention shall be left at the office of the Commissioners eight weeks at the least before the expiration of the term of provisional protection thereon, and no notice to proceed shall be received unless the same shall have been left in the office eight weeks at the least before the expiration of such provisional protection; and the application for the warrant of the Law Officer and for the Letters Patent must be made at the

office of the Commissioners twelve clear days at the least before the expiration of the term of provisional protection, and no warrant or Letters Patent shall be prepared unless such application shall have been made twelve clear days at the least before the expiration of such provisional protection: Provided always, that the Lord Chancellor may in either of the above cases, upon special circumstances, allow a further extension of time, on being satisfied that the same has become necessary by accident, and not from the neglect or wilful default of the applicant or his agent.

(Signed) CRANWORTH, C.
JOHN ROMILLY, M.R.
A. E. COCKBURN, A.G.
RICHARD BETHELL, S.G.

Dated the 12th of Dec. 1853.

PATENT LAW AMENDMENT ACT, 1852, 16 & 17 VICT. c. 115.

By the Right Honourable Robert Monsey Lord Cranworth, Lord High Chancellor of Great Britain.

Whereas by the Act 16 & 17 Vict. c. 115., the Lord Chancellor is empowered to extend the time for the sealing of Letters Patent for an invention, and for the filing of the Specification thereon, limited to the period of one month after the expiration of the six months of provisional protection of such invention, provided the delay in sealing such Letters Patent and in filing such Specification has arisen from accident, and not from the neglect or wilful default of the applicant.

It is ordered as follows:

Every petition addressed to the Lord Chancellor praying for the extension of time for the sealing of Letters Patent, and for the filing of the Specification thereon under the provisions of the Act of the 16 & 17 Vict. c. 115., and the affidavit accompanying the same, shall be left at the office of the Commissioners of Patents. And in every case where the delay in sealing such Letters Patent and in filing such Specification is alleged to have been caused by adjourned hearings of objections to the grant of such Letters Patent before the Law Officer to whom such objections may have been referred, the petitioner, before leaving his petition as aforesaid, shall obtain the certificate of such Law Officer to the effect that the allegations in respect of such adjourned hearings and causes of delay are, in the opinion of such Law Officer, correct, and that the delay arising from such adjourned hearings has not been occasioned by the neglect or default of the petitioner; and such certificate shall be written at the foot of or shall be annexed to such petition.

CRANWORTH, C.

Dated this 17th day of July 1854.

PATENT LAW AMENDMENT ACT, 1852.

I. In any application for a Patent which is stated to be a communication, the declaration must state the name and address of the party from whom it has been received, in the following manner :—

No. 1. When declaration is made in the United Kingdom —"That it has been communicated to me from abroad by (here insert name and address in full)."

No. 2. In other cases—"That it is a communication from (A.B.) a person resident at (here insert address in full)."

II. All Provisional Specifications must be written on one side only of each sheet.

FITZROY KELLY.
H. M. CAIRNS.

Dated 23rd Feb. 1859.

APPENDIX B.

COPY OF ORDERS vacating ENTRIES made in REGISTER OF PROPRIETORS.

MASTER OF THE ROLLS.

Mr. Latham, Friday, the 24th day of April, in the 20th Reg. 47. year of the reign of Her Majesty Queen Victoria, 1857 :

In the matter of the Patent Law Amendment Act, 1852 :

And in the matter of certain Letters Patent granted to George Green, of Mile End, in the county of Middlesex, bearing date the 1st day of October 1852 :

And in the matter of an assignment of the said Letters Patent, and the entry thereof in the Register of Proprietors of Patents.

Upon motion this day made unto the Right Honourable the Master of the Rolls by counsel for Melvil Wilson, of

Warnford Court, in the city of London, merchant; and Samuel Haven Hamilton, of Warnford Court, aforesaid, merchant; and upon hearing counsel for George Green and William George Nelson Green; and upon reading an affidavit of the said Melvil Wilson and others, filed the 9th day of April 1857, an assignment dated the 27th day of January 1853, an office copy assignment dated the 18th day of August 1855, an affidavit of the said George Green, filed the 23rd day of April 1857, and the exhibits A. B. and C. referred to:—It is ordered that the entry made on the 18th day of August 1855, in the Register of Proprietors at the Great Seal Patent Office, of the assignment of the 18th day of August 1855 from George Green to William George Nelson Green, of certain Letters Patent granted to the said George Green, and bearing date the 1st day of October 1852, be vacated; and it is ordered that the said George Green and William George Nelson Green do pay unto the said Melvil Wilson and Samuel Haven Hamilton their costs of this application to be taxed by the proper Taxing Master of the Court of Chancery.

MASTER OF THE ROLLS.

Mr. Merivale, Thursday, the 3rd day of June, in the 21st Reg. Fo. 50. year of the reign of Her Majesty Queen Victoria, 1858:

Order to vary Register of Proprietors left in the Office 20th Nov. 1858. In the matter of the Patent Law Amendment Act, 1852:

And in the matter of Letters Patent under the Great Seal of the United Kingdom bearing date the 30th day of August, in the 13th year of the Queen, granted to Charles Morey for certain improvements in machinery or apparatus for sewing, embroidering, and writing, or ornamenting by sewing various descriptions of textile fabrics:

And of Letters Patent under the Seal appointed to be used in place of the Great Seal of Scotland, bearing date the 3rd day of December, in the 13th year of the Queen, granted to the said Charles Morey for the said invention.

Upon motion on the eleventh day of January 1858, and this present day, made unto the Right Honourable the Master of the Rolls by Mr. Roundell Palmer and Mr. Aston of counsel for William Mather and Colin Mather; and upon hearing counsel for the Bernard Boot and Patent

Machine Shoe Company (limited) and others; and upon reading an affidavit of Colin Mather, filed the 8th day of January 1858, and the exhibit therein referred; an affidavit of Peter Armand Le Comte de Fontaine Moreau, filed the 23rd day of March 1858; an affidavit of John Henry Johnson, filed the 20th day of January 1858, and the exhibit therein referred to; an affidavit of Julian Bernard, filed the 20th day of January 1858; an affidavit of the said Colin Mather, filed the 21st day of May 1858, and the exhibits therein referred to; an affidavit of James Campbell Rowley, filed the said 21st day of May, and the exhibits therein referred to; and the depositions of the said Colin Mather, filed the 31st day of January 1858; the deposition of the said John Henry Johnson, filed the 8th day of May 1858, and the several exhibits therein referred to:—His Honour doth order that an entry be made in the margin of the Register of Proprietors opposite to the entry in such Register of the deed of the 21st day of February 1853, to the effect that the licence to Mather of Manchester, referred to in such deed, is the deed of the 13th day of January 1851, and the agreement of the 14th day of January 1851, which were on the 5th day of August 1857 entered in full in the Register.

(Copy of Certificate written on the above Order.)

PATENT LAW AMENDMENT ACT, 1852.

I hereby certify that the entry directed by this order was made in the margin of the Register of Proprietors on 20th day of November 1858.

L. EDMUNDS,
Clerk of the Patents.

Lund v. Lund, No. 485.

Upon reading the affidavit of Selby Coryndon, I do order that the assignment of the 20th August last made between Edward Lund and William Lund, and registered at the Great Seal Patent Office on the 30th of August last, be delivered up to William Lund, the assignee, or his solicitor, and the registration thereof be vacated and cancelled.

Dated the 9th day of September 1859.

COLIN BLACKBURN.

PATENT LAW AMENDMENT ACT, 1852.

I hereby certify that the registration of the within-mentioned assignment "Lund to Lund" was vacated and cancelled pursuant to the within order on the 9th September 1859.

L. EDMUNDS,
Clerk of the Patents.

APPENDIX C.

RESULTS of APPLICATIONS for PATENTS under the PATENT LAW AMENDMENT ACT, since 1st October 1852, during each of the under-mentioned years.

	1852. (3 months.)	1853.	1854.	1855.	1856.	1857.	1858.	1859.	1860.	1861.	Totals.
Applications - - - -	1,211	3,045	2,764	2,958	3,106	3,200	3,007	3,000	3,196	3,276	28,763
Ditto with Provisional Specifications - -	1,178	2,994	2,722	2,900	3,064	3,164	2,956	2,953	3,145	3,228	28,304
Ditto with Complete Specifications - -	33	51	42	58	42	36	51	47	51	48	459
Ditto for English inventions - - - -	1,014	2,439	2,397	2,133	2,565	2,399	2,299	2,455	2,564	2,392	22,657
Ditto for foreign inventions - - - -	197	606	367	825	541	801	708	545	632	884	6,106
Provisional protections - - - -	1,176	2,972	2,704	2,892	3,052	3,146	2,949	2,940	3,125	3,178	28,134
Notices to proceed - - - -	973	2,363	2,050	2,271	2,342	2,294	2,174	2,193	2,318	2,273	21,251
Oppositions entered - - - -	69	131	67	49	61	54	48	43	38	30	590
Hearings of oppositions before Law Officers -	65	119	61	48	56	48	44	43	34	28	546
Warrants granted - - - -	918	2,190	1,878	2,047	2,097	2,031	1,954	1,979	2,065	2,049	19,208
Warrants refused - - - -	9	23	11	8	12	10	7	2	7	9	98
Oppositions to sealing entered - - - -	4	5	2	8	4	3	1	5	2	2	36
References to Law Officers by Lord Chancellor - - - -	1	1	1	1	1	1	—	—	1	1	8
Hearings before Lord Chancellor - - - -	4	3	2	5	2	3	1	3	1	2	26
Patents sealed - - - -	914	2,185	1,876	2,044	2,094	2,028	1,954	1,976	2,061	2,047	19,179
Specifications filed in pursuance of Letters Patent - - - -	865	2,071	1,774	1,938	2,010	1,943	1,878	1,900	1,966	1,969	18,314
Patents void for want of Specifications filed Complete Specifications filed with petition on which Patents have been sealed -	23	74	66	55	47	52	31	39	47	35	469
Ditto lapsed by reason of non-sealing of Patent - - - -	26	40	36	51	37	33	45	37	48	43	390
Stamp duties of 50 <i>l.</i> paid before the end of third year - - - -	7	11	6	7	5	3	6	10	3	5	63
Patents lapsed at end of third year - -	310	621	513	551	573	584	539				
Stamp duties of 100 <i>l.</i> paid before the end of seventh year - - - -	581	1,490	1,297	1,438	1,474	1,392	1,394				
Patents lapsed at end of seventh year -	102	205	140								
	208	416	373								

APPENDIX D.

CIRCULAR sent in answer to WRITTEN APPLICATIONS for ADVICE.

CIRCULAR.

1. *Mode of Proceeding to obtain English Letters Patent.*—All necessary information under this head will be found in the Patent Law Amendment Acts and Rules, published by order of the Commissioners of Patents (see List of Works, No. 36). Applications for Letters Patent, payments of fees or stamp duties thereon, and oppositions to grants of Letters Patent, must be made at this Office personally or through an agent. Applications by letter cannot be entertained.

2. *Mode of Proceeding to obtain Patents or corresponding Privileges in the British Colonies and in Foreign States.*—The Patent Laws and Regulations of Foreign States and of the British Colonies may be found in the following numbers of the Commissioners of Patents' Journal (see List of Works, No. 35), published at 2d. each, or 3d. free by post:—

Austria, No. 291.	New Zealand, No. 861.
Baden, and Petty States of Germany, No. 325.	Norway, No. 665.
Bavaria, No. 262.	Parma, Piacenza, and Guastalla, No. 321.
Belgium, Nos. 292 and 348.	Poland, No. 335.
Canada, Nos. 279, 625, 856.	Portugal, No. 325.
Cape of Good Hope, No. 727.	Prussia, Nos. 313 and 329.
Ceylon, No. 648.	Queensland, No. 859.
Cuba, No. 498.	Roman States, No. 319.
Dutch West Indies, No. 322.	Russia, Nos. 334 and 508.
France, No. 228.	Sardinia, Nos. 233, 235, 636, 637, 639, and 640.
Germany, No. 435.	Saxony, No. 236.
Greece, No. 325.	Sicilies (the Two), No. 316.
Guiana (British), No. 798.	Spain, No. 323.
Hanover, No. 231.	Sweden, Nos. 327 and 354.
India, Nos. 240, 348, 552, 578.	Tasmania, No. 860.
Jamaica, No. 660.	United States of America, Nos. 638, 646, 753, and 789.
Mexico, No. 496.	Victoria, Nos. 186 and 359.
Netherlands, No. 289.	Wurtemberg, No. 314.
Newfoundland, No. 858.	
New South Wales, No. 386.	

As to Colonial Patents, see also List of Works, Nos. 39 and 40.

3. *List of Applications for Patents and of Patents Granted, &c., at home and abroad.*—These are published twice a week in the Commissioners' Journal (see List of Works, No. 35), being in all cases official communications.

4. *Advice on Patent Matters, Opinions as to the relative Merit or Novelty of Inventions proposed to be patented, the Infringement or fraudulent Appropriation of Inventions, &c.*—The Commissioners of Patents do not give advice or opinions on any subject connected with the Patent Laws. These, like other laws, are left to the interpretation of professional men. Any solicitor in the country will be enabled, either from his own knowledge or through his London agent, to point out to his client an agent qualified to give advice or obtain Patents, to conduct oppositions to grants of Letters Patent, and to apply for renewals of expiring Patents.

5. *Searches for particular Patents or Classes of Patents.*—The clerks in the Commissioners' Office are not authorized to undertake searches for Patents relating to particular inventions or classes of inventions, or to supply lists of such Patents, as the printing and publication of the subject-matter indexes has now removed every difficulty from the way of inquiry. (See below, paragraph 9.)

6. *Registration of Designs.*—Letters respecting the registration of designs are frequently sent by mistake to the Patent Office. For all information on this subject application should be made to the Registrar, Designs Office, 1, Whitehall, S.W.

7. *Patent Medicines.*—Many medicines are vended under a Government stamp as "Patent Medicines" which have never been the subjects of Letters Patent. Communications with respect to this class of medicines should be addressed to the Secretary, Stamps and Taxes, Inland Revenue Department, Somerset House, W.C.

8. *Allowance of Copies to Persons filing Specifications, &c.*—Although by section 30 of the Patent Law Amendment Act the Commissioners are empowered to allow a number not exceeding 25 copies of any Specification, Disclaimer, or Memorandum of Alteration, to the person filing the same, they have never availed themselves of this power,

believing that the interests of patentees and inventors are better served by the sale of these documents at *cost price*, and by the presentation of copies of *all* their publications to every important town the authorities of which are prepared to accept them on condition of rendering the works daily accessible to the public free of all charges either for inspection or for permission to make extracts or copies.

9. *The Commissioners' Publications.*—These may be consulted daily at the Free Public Library in the Commissioners' Office, 25, Southampton Buildings, Chancery Lane, and at the Free Public Library at the Patent Museum, South Kensington. They are also on sale at the Commissioners' Office. A list of the printed Specifications of Patents (including Surrenders and Disclaimers) enrolled under the old law, with the prices affixed, was published in the Commissioners' Journal, No. 546, for 1859, pp. 359-410 (price 2d.), and from week to week in the same Journal are published similar priced lists of all Specifications filed and printed under the new law. The Commissioners' publications are sold at *cost price*, with the exception of the Abridgments, on which a discount of 25 per cent. is allowed to booksellers. Specifications and other publications will be forwarded by post on receipt of the amount of price and postage. Sums exceeding 5s. must be remitted by Post Office Order, made payable at the Post Office, Holborn, to Mr. Bennet Woodcroft, Great Seal Patent Office. Persons requiring Specifications must send the name of the Patentee, with the No. and date of the Patent. These particulars can be obtained by searching the Indexes of Patents. The price of each Specification is printed at the bottom of the blue cover, in the left-hand corner. To render the Commissioners' publications (now numbering upwards of 1,500 volumes) as extensively available as possible, copies have been presented to the authorities of every important town in the kingdom, on condition, as before stated, that the works shall be rendered daily accessible to the public, for reference or for copying, *free of all charge*. The following list shows the place of deposit, so far as ascertained, of each set of the works thus presented:—

Aberdeen (Public Library, Town House).
Accrington (Mechanics' Institution, Bank Street).
Belfast (Queen's College).
Beverley (Guildhall).
Birmingham (Birmingham and Midland Institute, Cannon Street).
Bolton-le-Moors (Public Library, Exchange Buildings).
Blackburn (Town Hall).
Bradford, Yorkshire (Borough Accountant's Office, Corporation Buildings, Swain Street).
Brighton (Town Hall).
Bristol (City Library, King Street).
Burnley (Office of the Burnley Improvement Commissioners).
Bury.
Cambridge (Free Library, Jesus Lane).
Canterbury (Municipal Museum, Guildhall Street).
Carlisle (Public Free Library, Police Office).
Chester (Town Hall, Northgate Street).
Cork (Royal Cork Institution, Nelson Place).
Crewe (Railway Station).
Darlington (Mechanics' Institute, Skinnergate).
Dorchester.
Drogheda.
Dublin (Royal Dublin Society, Kildare Street).
Dundalk (Free Library).
Falmouth (Public Library, Church Street).
Gateshead (Mechanics' Institute).
Gorton (Railway Station).
Glasgow (Stirling's Library, Miller Street).
Grimsby, Great (Mechanics' Institution, Victoria Street).
Halifax.
Hanley, Staffordshire Potteries (Town Hall).
Hartlepool, West (Literary and Mechanics' Institution, Church Street).
Hertford (Free Public Library, Town Hall).
Huddersfield (Improvement Commissioners' Offices, South Parade).
Hull (Mechanics' Institute, George Street).
Ipswich (Museum Library, Museum Street).
Keighley (Mechanics' Institute, North Street).
Kidderminster (Public Free Library, Public Buildings, Vicar Street).
King's Lynn, Norfolk (Stanley Library, Athenæum).
Lancaster (Mechanics' Institute, Market Street).
Leamington Priors (Public Library, Town Hall).
Leeds (Town Clerk's Office, Town Hall).
Leicester (Corporation Library, Town Hall).
Limerick (Town Hall).
Liverpool (Free Public Library, Duke Street).

London (British Museum).
 — (Society of Arts, John Street, Adelphi).
 Macclesfield (Useful Knowledge Society).
 Maidstone (Free Library).
 Manchester (Free Library, Camp Field).
 Montrose (Free Library).
 Newark, Nottingham (Mechanics' Institute, Middle Gate).
 Newcastle-upon-Tyne (Literary and Philosophical Society).
 Newport, Monmouth (Commercial Room, Town Hall).
 Northampton.
 Norwich (Free Library, St. John's, Maddermarket).
 Nottingham (Corporation Rooms, St. Peter's Church Side).
 Oldham (Town Hall).
 Oxford (Public Free Library, Town Hall).
 Paisley (Government School of Design, Gilmour Street).
 Plymouth (Mechanics' Institute, Princess Square).
 Preston, Lancashire (Dr. Shepherd's Library, the Institution, Avenham).
 Reading (Literary, Scientific, and Mechanics' Institution, London Street).
 Rochdale (Commissioners' Rooms, Smith Street).
 Rotherham (Board of Health Offices, Howard Street).
 Salford (Royal Museum and Library, Peel Park).
 Sheffield (Free Public Library, Surrey Street).
 Shrewsbury (Public Museum, College Street).
 Southampton (Corporation Library, Audit House).
 Stirling (Burgh Library, Town House, Broad Street).
 Stockport (Court House, Vernon Street, Warren Street).
 Sunderland (Corporation Museum, Athenæum, Fawcett Street).
 Tiverton.
 Wakefield (Mechanics' Institution, Barstow Square).
 Warrington (The Museum and Library).
 Waterford (Town Hall, The Mall).
 Wednesbury (Board of Health Offices).
 Wexford (Mechanics' Institute, Crescent Quay).
 Wigan.
 Wolverhampton (School of Practical Art, Darlington Street).
 Wolverton (Railway Station).
 Yarmouth, Norfolk (Public Library, South Quay).
 York (Lower Council Chamber, Guildhall).

The Commissioners' Publications have been presented also to the following Public Offices, Seats of Learning, Societies, British Colonies, and Foreign States:—

Public Offices.

Admiralty—Department of the Surveyor of the Navy.
 — Steam Branch. Sheerness Dockyard.
 — Deptford Dockyard. Portsmouth ditto.
 — Woolwich ditto. Devonport ditto.
 — Chatham ditto. Pembroke ditto.
 Artillery Institute, Woolwich.
 Board of Trade, Whitehall.
 Ordnance Office, Pall Mall.
 — Small Arms' Factory, Enfield.
 War Office, Pall Mall.
 India Office.
 Government School of Mines, &c., Jermyn Street, Piccadilly.
 Dublin Castle, Dublin.
 Rolls' Office, Chancery (Four Courts), Dublin.
 Office of Chancery, Edinburgh.

Seats of Learning and Societies.

Cambridge University. Queen's College, Galway.
 Trinity College, Dublin. University College, London.
 Incorporated Law Society, Chancery Lane, London.

British Colonies.

Malta. Victoria—Patent Office,
 Cape of Good Hope. Melbourne.
 Mauritius. Parliamentary
 India—Bengal. Library, Melbourne.
 North-West Provinces.
 Madras. Public Library.
 Bombay. Melbourne.
 Ceylon. New South Wales.
 South Australia.
 Tasmania.
 New Zealand.
 Nova Scotia.
 New Brunswick.
 Prince Edward Island.
 Antigua.
 Barbados.
 Jamaica.
 Trinidad.
 British Guiana.
 Montreal.
 Newfoundland.
 Canada—Library of Parliament, Quebec.
 Patent Office, Toronto.
 Board of Arts and Manufactures for Lower Canada.

Foreign States.

Austria—Handels Ministerium, Vienna.
 Bavaria—Königliche Bibliothek, Munich.
 Belgium—Ministère de l'Intérieur, Brussels.
 France—Bibliothèque Impériale,
 Conservatoire des Arts et Métiers, } Paris.
 Hôtel de Ville.
 Société Industrielle de Mulhouse.
 Gotha—Ducal Friedenstein Collection.
 Hanover—Ministerium des Innern, Hanover.
 Netherlands—Ministère de l'Intérieur, The Hague.
 Prussia—Handels Ministerium, Berlin.
 Königliche Bibliothek, Berlin.
 Russia—Bibliothèque Impériale, St. Petersburg.
 Sardinia—Ufficio delle Privative, Turin.
 Saxony—Polytechnische Schule, Dresden.
 Spain—Madrid.
 Sweden—Stockholm.
 United States—The Patent Office, Washington.
 The Astor Library, New York.
 The State Library, Albany.
 The Franklin Institute, Philadelphia.
 The Free Library, Boston.
 The Philadelphia Library Company.
 Wurtemberg—Bibliothek des Musterlagers, Stuttgart.

LIST OF WORKS printed by order of the Commissioners of Patents for Inventions, and sold at the Great Seal Patent Office, 25, Southampton Buildings, Chancery Lane, London.

1. Chronological Index of Patents of Invention, from March 2, 1617 (14 James I.), to the 1st October, 1852 (16 Vict.). 2 vols. (1554 pages). London, 1854. Price 30s. By Post, 33s. 2d.
2. Alphabetical Index for the above period. 1 vol. (647 pages). London, 1854. Price 20s. By Post 21s. 6d.
3. Subject-Matter Index for the above period. 2 vols. (970 pages). Second edition. London, 1857. Price 2l. 16s. By Post, 2l. 18s. 8d.
4. Reference Index of Patents of Invention, pointing out the office in which each enrolled Specification of a Patent may be consulted; the books in which Specifications, Law Proceedings, and other subjects connected with Inventions have been noticed; also such of the Specifications of Patents granted since the 14th James I. as have been published by the authority of the Commissioners. 1 vol. (681 pages). London, 1855. Price 30s. By Post, 32s. 2d.
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40. Extension of Patents to the Colonies.—Abstract of Replies to the Secretary of State's Circular Despatch of January 2, 1853, on the subject of the Extension of Patents for Inventions to the Colonies. Second Edition, with Revised Table. 1861. Price 2s. By Post, 2s. 2d.

41. Catalogue of the Library of the Great Seal Patent Office. Two vols. imp. 8vo. (Vol. I. Titles; Vol. II. Index.) Price 21s. By Post, 22s. 8d.

42. Descriptive Catalogue of the Machines, Models, Portraits, &c., in the Museum of the Commissioners of Patents at South Kensington. Third edition. 1859. Price 1s. By Post, 1s. 4d.

PATENT MUSEUM, SOUTH KENSINGTON.

This Museum is open to the Public daily, free of charge. The hours of admission are, on Mondays, Tuesdays, and Saturdays, from 10 A.M. till 10 P.M., and on Wednesdays, Thursdays, and Fridays, from 10 A.M. till 5 P.M.

If any Patentee should be desirous of exhibiting a model of his invention in London, he may avail himself of this Museum, which has been visited, since its opening on the 22nd June 1857, by more than 600,000 persons. The model will be received either as a gift or loan; if deposited as a loan, it will be returned on demand. Before sending a model, it is requested that the size and description of it shall first be given to the Superintendent of the Patent Museum.

Gallery of Portraits of Inventors, Discoverers, and Introducers of useful Arts.—This Collection, formed by Mr. Woodcroft, and first opened to public view in the Great Seal Patent Office in 1853, is now exhibited in the Patent Museum at South Kensington.

Presentations or loans of Portraits, Medallions, Busts, and Statues, in augmentation of the Collection, are solicited. They will be duly acknowledged in the Commissioners of Patents' Journal, and included in the next edition of the Catalogue.

All communications relating to the Specification Department, or to the Museum and Portrait Gallery, to be addressed to B. Woodcroft, Superintendent of Specifications and of the Patent Museum, Great Seal Patent Office, 25, Southampton Buildings, Chancery Lane, London, W.C.

APPENDIX E.

PATENT LAW AMENDMENT ACT, 1852.

REPORT of the Commissioners of Patents to the Lords Commissioners of Her Majesty's Treasury on the subject of Building a Patent Office, Library, and Museum.

To the Lords Commissioners of Her Majesty's Treasury.

The Right Honourable Richard Lord Westbury, Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly, Master of the Rolls, Sir William Atherton, Her Majesty's Attorney General, and Sir Roundell Palmer, Her Majesty's Solicitor General, being four of the Commissioners of Patents for Invention under the said Act, have to present the following Report to your Lordships:—

In April 1858, Lord Chelmsford, Lord High Chancellor of Great Britain, Sir John Romilly, Master of the Rolls, Sir FitzRoy Kelly, Attorney General, and Sir Hugh M'Calmont Cairns, Solicitor General, being four of the Commissioners of Patents for Invention under the said Act, reported to your Lordships in the words following:—

"The 4th section of the Patent Law Amendment Act, 1852, enacts that 'it shall be lawful for the Commissioners of Her Majesty's Treasury to provide and appoint from time to time proper places or buildings for an office or offices for the purposes of the said Act.'

"In pursuance of the requisition of the Lords Commissioners of Her Majesty's Treasury, dated in 1853, the Commissioners of Her Majesty's Board of Works provided certain offices for the Commissioners of Patents, being the ground-floor rooms of the Masters' offices in Southampton Buildings, Chancery Lane, theretofore occupied by Masters in Chancery, abolished under the Act 15 & 16 Vict. c. 80.; and an annual rent of 490*l.* is now paid out of the Fee Fund of the Patent Office to the Sutors' Fund of the Court of Chancery for the hire of the same.

"This arrangement was not considered to be permanent; no lease has been granted, and as these offices are now required for the occupation of the registrars and other officers of the Court of Chancery, due notice has been given to the Commissioners of Patents, requiring them to give up possession so soon as other suitable offices can be procured.

"These offices were in 1853 sufficient in number and accommodation for the ordinary business of the office.

"In the year 1855 the Commissioners of Patents established a free public library within their office, containing works of science in all languages, the publications made by the Commissioners, and the works upon patented and other inventions published in the British Colonies and in Foreign countries.

"This library has greatly increased and continues to increase, partly by purchases, but in a great measure by gifts of valuable and useful books. It was resorted to at the first opening by inventors, engineers, and mechanics, as well as by barristers, solicitors, and agents engaged in Patent business; it has become a collection of great interest and importance, and the number of readers has so much increased that at this time convenient standing room cannot be found in the two small rooms within the office which can be appropriated to the library. It is the only library within the United Kingdom in which the public have access not only to the Records of the Patents and Inventions of this country, but also to official and other documents relating to Inventions in Foreign countries, and this without payment of any fee.

"A largely increased accommodation is urgently required.

"No suitable building can be found in the immediate neighbourhood of Southampton Buildings, either to be rented or for purchase.

"The new offices to be provided must be fire-proof, for the preservation of the original Specifications and other Records of the office; the offices now occupied are fire-proof throughout.

"The Commissioners of Patents are in possession of a collection of very valuable and interesting models of patented machines and implements, as also of portraits of inventors, many of them gifts, and others lent by the owners for exhibition. They are now exhibited daily, and gratuitously, in a small portion of the Museum at Kensington, assigned to the Commissioners of Patents for that purpose by the Lords of the Committee of Privy Council for Trade.

"A museum of this nature necessarily increases, and the number of models now exhibited may be considered as forming only the foundation of a great national museum.

"The great work of printing the old Specifications of Patents, with the drawings attached thereto, inrolled in Chancery under the old law, dating from 1623 to 1852, and 12,977 in number, was commenced in 1853, and completed

1858. All have been fully indexed in series and subjects, and the indexes printed and published. These prints of Specifications form about 900 volumes (450 imperial octavo volumes of drawings, and the like number of imperial octavo volumes of letter press). The indexes form seven imperial octavo volumes.

"These valuable works have cost, in transcribing, printing, lithographic drawing, and paper, upwards of 90,000*l*."

"Notwithstanding this great outlay, the balance sheet of income and expenditure for the year 1857, prepared for the annual Report of the Commissioners, and laid before Parliament, shows a surplus income from the commencement of the Act, 1st October 1852, to the end of 1857, of 6,000*l*."

"The balance sheet of Income and Expenditure for the year 1858 will, no doubt, increase the total surplus to 12,000*l*. or 13,000*l*."

"The work of printing the old Specifications being completed, as above stated, the expenditure on that head ceases altogether, and consequently the surplus income of the year 1859 is estimated at 31,000*l*.; adding this sum to the available surplus of 12,000*l*., as above stated, and allowing a margin of 3,000*l*., 40,000*l*. may be safely estimated as the sum available for building purposes at the end of the year 1859."

"The Act of 1853 (16 Vict. c. 5.) converted all the fees imposed by the Act of 1852 into Stamp duties, thereby passing the whole income of the office to the Consolidated Fund."

"The expenditure of the office is estimated and voted annually by Parliament."

"There is no appearance of diminution in the number of applications for Patents, and they may be safely estimated to continue for future years at 3,000 in each year.*"

"This number will produce 95,000*l*. in Stamp duties, and adding thereto 1,600*l*. for the average annual proceeds of sales of printed Specifications, the future annual gross income may be taken at 96,600*l*. The gross income is, however, liable to a deduction of 18,500*l*. on account of Revenue Stamp duties, leaving the real available future income of the Patent Office at 78,100*l*.† per annum or thereabouts."

"The Patent Law Amendment Act, 1852, (15 & 16 Vict. c. 83.) imposed certain Revenue Stamp duties upon Patents. These duties have hitherto produced 15,300*l*. per annum, and that sum has been charged against the office in the annual balance sheet of Income and Expenditure."

"These duties are estimated for future years to produce 18,500*l*.‡ or thereabouts."

"The work of printing the old Specifications being completed as above stated, the yearly future cost of the current Specifications, Abstracts of Specifications, journals, indexes, &c., in letter-press printing, lithographic printing, and paper, will not exceed § 17,500*l*. per annum, as contrasted with the average yearly expenditure on those three heads of 39,375*l*. within the years 1856-7-8."

"The Commissioners of Patents are of opinion that it is not expedient to propose to Parliament a reduction of the scale of Stamp Duty fees imposed by the Act of 1852."

"They are of opinion that the fees paid upon the passing of a Patent are not too heavy; the large number of applications (3,000 in each year) accounting for the large amount of income. Any material reduction in the amount of fees would undoubtedly tend to increase the number of useless and speculative Patents; in many instances taken merely for advertising purposes."

"The fee Stamp duties and the Revenue Stamp duties are as follows :

	Fee Stamp Duties.	Revenue Stamp Duties.
	£ s. d.	£ s. d.
Within the first six months from the petition for provisional protection to the filing of the Specification - - -	20 0 0	5 0 0
On the Patent at the expiration of the third year - - -	40 0 0	10 0 0
On the Patent at the expiration of the seventh year - - -	80 0 0	20 0 0
(The Patent is granted for fourteen years.)		

* The number of applications in 1861 was 3,276.

† The available income of the Patent Office amounted in 1860 to 92,000*l*.

‡ The Revenue Stamp Duties produced 18,485*l*. in 1861.

§ The cost of printing, lithographic drawings, paper, books, and binding, for the year 1861, amounted to 18,800*l*.

"There are 3,000 petitions for provisional protection presented in each year, or thereabouts. Of this number, 1,950 reach the Patent, and 550 Patents pay the 50*l*. additional Stamp duty required at the expiration of the third year; 1,450 Patents, or nearly three fourths of the whole, thereby becoming void. Probably not more than 100 of the surviving 550 will pay the 100*l*. additional Stamp duty required at the end of the seventh year.*"

"Considering the beneficial results of the additional payment of 50*l*. in sifting useless Patents, the Commissioners are of opinion that it is not expedient to reduce the amount, and so long as the surplus can be expended for the benefit of patentees and that portion of the community which is principally interested in and connected with the practical application to public purposes of discoveries and improvements in science and art."

"They are of opinion that the surplus income, calculated as before stated, to amount to 30,000*l*. at the end of the current year 1859, and to increase in each succeeding year at the rate of 20,000*l*. per annum, may be beneficially applied in the purchase of ground in a central situation, and in the erection thereon of a sufficiently spacious fire-proof building for the Patent Offices and public free Library attached thereto; and that the surplus fund may also be beneficially applied in the purchase of ground and the erection thereon of a permanent and spacious building for the Patent Office Museum, sufficient ground being taken for the extension of the building from time to time, as may be required."

"This is the more necessary, inasmuch as models of the most interesting and valuable description lie scattered over the kingdom, in many instances constructed at a great expense, for legal and other purposes, for which the owners have no present use, and many of which occupy a space inconvenient to them. These models, or many of them, would, as the Commissioners confidently expect and believe, be presented or intrusted to them for exhibition in such museum, provided the public are allowed free access to it at all reasonable times."

"The Commissioners of Patents therefore request that the Lords Commissioners of Her Majesty's Treasury will be pleased to sanction the application of a sufficient portion of the surplus now derived from the fees paid on Patents for the purpose of accomplishing the objects above mentioned, and that with this view their Lordships will be pleased to give the necessary directions to Her Majesty's Board of Works to obtain a proper site for the proposed new Patent Office and Library, to be selected with the approbation of the Commissioners of Patents and with the sanction of the Lords Commissioners of Her Majesty's Treasury, and also to prepare the necessary plans, elevations, and specifications for this purpose, also to be submitted to the Commissioners of Patents for their approval, and to make contracts for the building of the same when approved."

"If their Lordships consent to these proposals the Commissioners of Patents have to request that a sufficient sum for the purpose, so far as the same may be required for the year 1858-9, may be included in the estimate to be laid before Parliament in the present session for Patent Office expenses."

This Report was, immediately on the receipt thereof by their Lordships, transmitted by them to Her Majesty's Board of Works, with instructions that a convenient site should be provided for the proposed new Offices, Public Library, and Museum, and also that plans and estimates should be prepared for Parliament."

In 1859 the Lords Commissioners of Her Majesty's Treasury and the Chief Commissioner of Her Majesty's Board of Works approved of a site for this purpose, lying at the northern extremity of the gardens of Burlington House; and thereupon plans and estimates were prepared for the new Patent Office and Library, by Messrs. Banks and Barry, the architects appointed by the Board of Works, which were so arranged as to form a portion of one complete design for the appropriation of the whole site of Burlington House and Gardens for various public buildings. This plan was, however, suspended or altogether abandoned on the change of Government in that year (1859), and no other site has been since provided for the Patent Office buildings."

The space required for these buildings may be estimated from the following circumstances:—

It is considered by the Commissioners of Patents to be highly desirable, and indeed necessary, that the Patent

* In 1861, 540 paid the additional duty of 50*l*. and 142 the additional Stamp duty of 100*l*.

Office Museum should be so constituted as to become an historical and educational institution for the benefit and instruction of the skilled workmen employed in the various factories of the kingdom. These persons constitute a class which largely contributes to the surplus fund of the Patent Office in fees paid upon Patents granted for their inventions. Amongst the various things necessary to be done in order to accomplish this object it is considered to be of great importance that machines and exact models of machines, in subjects and series of subjects, showing the progressive steps of improvement in each branch of manufacture, should be exhibited. For example, taking the case of steamboats, in order to show the rise and progress of this invention, it is necessary to exhibit in a series of exact models of machines, or by the machines themselves, each successive invention and improvement in steam propellers, from the first engine on the paddle system that drove a boat of two tons burthen to the powerful machinery of the present day on the screw system in first-rate ships of war; accordingly the present Museum presents a very interesting collection to elucidate this subject. The original small experimental engine that drove the boat of two tons burthen, above referred to, is now in the Museum, and stands the first in the series of propellers and models of propellers; and in order to explain how the existence of such a Museum is the cause of its becoming daily more perfect, it may be useful to state that in this branch the following valuable and interesting original machines and models of machines have lately been added to the Museum, either by the gift of the proprietors or at a very trifling expense:

First. A perfect model of Trevithick's locomotive engine, the first engine that ran upon common roads in 1803.

Secondly. An original stationary and pumping engine made on Newcomen's principle, to which Watt applied his important invention for condensing, by the means of a separate vessel and air pump, the steam that had been used and formerly condensed in the cylinder.

Thirdly. The original fixed engine made by Watt in 1788 for converting rectilinear into circular motion, in order thereby to drive mill work by the use of his invention, known as the sun and planet motion. These two last-mentioned engines drove for many years the machinery used at the Soho works of Messrs. Boulton and Watt, near Birmingham.

Fourthly. The very early original locomotive engine brought from the Wylam Colliery in Durham, the first engine which moved by the contact of smooth wheels on smooth rails. This engine was worked at the colliery nearly 50 years, commencing in 1813.

And fifthly, the original "Rocket" locomotive engine made by George Stephenson and worked at the opening of the Liverpool and Manchester railroad in 1829, which unfortunately was the cause of Mr. Huskisson's death.

These instances are selected from one division of the Museum, and are enumerated for the purpose of pointing out, in the first place, the value of such a Museum in an historical and social as well as in a scientific point of view; and, in the second place, the large space that must necessarily be required for the purpose of their accommodation, in such a manner as to enable those who wish to study them to be able to do so without difficulty or inconvenience. It is also to be borne in mind that the number of the models and machines will increase rapidly year by year, and consequently that a large additional space of ground should be secured for the future extension of the Museum.

The Commissioners are also in possession of a large number of valuable models, which still remain in cases, because room cannot be found for their exhibition in the space assigned to them in the Museum at South Kensington; indeed so limited is that space that they are obliged to postpone the acceptance of many valuable models offered as gifts by manufacturers and inventors. Several good models of machines have also, for the same reason, been lately removed to afford room for machines of a higher degree of interest.

The Public Library at the Patent Office is in the same crowded condition; the books daily increase in number, and many remain in cases, for the reason that shelf room cannot be found for the books, and still less accommodation for the readers.

The inconvenience arising from this source is accurately pointed out in a memorial presented to the Commissioners of Patents on the 22d of July last, and signed by 46 gentlemen, consisting of eminent mechanical engineers, chemists, manufacturers, inventors, and agents, who are readers in the Public Library of the Patent Office. A copy of the memorial, so far as it relates to this subject, is appended to this Report.

In connexion with the erection of the necessary buildings for the objects above specified, a most important consideration is the spot to be selected for that purpose. The readers in the library being of the class of scientific persons, barristers, mechanical engineers, chemists, inventors, skilled workmen in the various factories, solicitors, and patent agents, it is obvious that the readers should be enabled to read the books and examine the machines and models at the same time and in the same place, and, consequently, that the Patent Office, Public Library, and Museum should be either under the same roof or in very close proximity, and also that the spot to be selected should be of easy access to the class of persons above referred to.

The proposed site for the Patent Office buildings in Burlington House Gardens having been abandoned, as above stated, the Commissioners of Patents, in the following year (1860), proposed to your Lordships, Fife House and Gardens in Whitehall, as a convenient site for the Patent Office buildings and Museum, and one that would unite all the necessary requirements already referred to. This proposal was favourably considered, and a minute of the Treasury was transmitted thereon to the Board of Works. It was found, however, that until the question of the embankment of the river and the roads of access to the main river-side road should have been settled by Parliament, no appropriation of that site for building purposes could be made.

This difficulty is now removed. The several roads have been set out and definitely fixed by the Thames Embankment Act of the present session, and it is consequently now open to Her Majesty's Government, if it shall think fit to do so, forthwith to appropriate the site of Fife House for the erection of the proposed Patent Office buildings.

The Crown leases of Fife House and the several buildings adjoining thereto have lately expired, and therefore the whole property is now at the disposal of Her Majesty's Commissioners of Woods and Forests in right of the Crown; and the Commissioners of Patents are informed that the site-proposed can be obtained either by purchase or on a Crown building lease.

The plan attached to this Report shows the road of access from Whitehall to the river-side main road, and the site proposed to be taken (the Patent Office Library and Museum marked A. and coloured red); also the land to be reclaimed by the embankment (marked B. and coloured green) proposed to be reserved and appropriated for the extension of the Museum in future years.

The surplus income of the Patent Office, applicable to building purposes, amounts in the aggregate to 129,000*l.* The Commissioners of Patents do not propose to ask your Lordships to apply for building purposes any portion of this sum which has already been received and has formed part of the general revenue of the country, but merely that the surplus income of the present year (1862) and that of succeeding years should be applied for the purposes above enumerated.

The surplus income of the current year (1862) is estimated at 40,000*l.*

The Commissioners of Patents therefore earnestly request that your Lordships will be pleased to sanction the appropriation of the site proposed by them for the Patent Office buildings; that your Lordships will be pleased to give the necessary directions to Her Majesty's Board of Works to obtain the proposed site, either by purchase or by a lease from the Crown, and to direct the architects to prepare the necessary plans, elevations, and estimates; and further, that your Lordships will be pleased to direct such plans, elevations, and estimates to be laid before Parliament at the commencement of the ensuing session; and to apply for a vote for such proportion of the estimated cost of the buildings as may be required for the year 1863-4; and, should it be decided to purchase the land for the site, also to apply to Parliament for the sum of money necessary for that purpose, all such monies to be repaid out of the surplus income for the current and succeeding years.

Dated 7th August 1862.

WESTBURY, C.
JOHN ROMILLY, M.R.
WILLIAM ATHERTON, A.G.
ROUNDELL PALMER, S.G.

APPENDIX.

The Memorial referred to above.

July 22, 1862.

We, whose names are hereunto set, and who include in our numbers many engineers, chemists, manufacturers, and persons who have from time to time obtained Letters Patent for their inventions, most respectfully beg to bring before the notice of the Commissioners of Patents certain grave defects which exist in the Library of the Commissioners, and which defects are increasing from day to day.

The existing and increasing defects, which we beg may be remedied, are—First, and principally, the absence not merely of ordinary accommodation, but literally of standing room. The space, which even at the outset was far too limited, has become, owing to the unavoidable necessary increase from time to time of the books, so contracted, that any careful study of a work is impracticable, on account of the confusion caused by the moving to and fro of visitors who are in vain seeking vacant places. Another defect is the difficulty frequently met with in obtaining a required work; this does not arise from any want of knowledge on the part of the librarian or attendants as to the place where it is to be found, nor to any want of attention, for we are happy to be able to record our sense of the painstaking intelligence and unvarying courtesy of all the officials, who, as far as their limited number will admit, meet every wish of the users of the library; but it arises from the fact that, owing to the want of space, many of the books are of necessity in parcels and piles on the floor, and it is a matter of great loss of time and labour to turn these over to obtain one.

Many of the undersigned, in their capacity of men professionally engaged in engineering and chemistry, and in the improvement and perfecting the processes of manufacture, have frequent occasion to consult scientific works, and to examine into the various improvements which from time to time have been patented, and have been given to the public by their inventors in consideration of the protection afforded to them by their Patents, and have been published to the world in the cheapest and most accessible manner by the admirable provision of the Patent Law of 1852; and we cannot too strongly impress on the Commissioners the advantage of having accumulated in the library a complete collection, not only of these Specifications of British Patents, but also of the journals and abstracts of the Patent Offices of other countries, and of the various English and foreign scientific works.

It is only by having such information as this collected in one place that it becomes really useful, but when so collected, it is the means of informing and instructing the engineer, the chemist, and the manufacturer in matters of great use in their respective callings, and is further frequently the means of preventing men of truly inventive minds from losing their time and money on matters which they honestly believe they have discovered, but which the works contained in such a library prove to them are not new; and also is highly useful in enabling persons successfully to resist demands made on them by those who had obtained Patents for matters which were published to the world prior to the date of such Patents by the very depositing in this library of works containing a description of the things so subsequently improperly patented.

This being the opinion of all and the experience of many of the undersigned, as to the great use of this library, when properly maintained, we most earnestly deprecate any attempt to make the limited space continue to be for a longer time available by a diminution in the number of works which ought to be added to it; and therefore we pray the immediate attention of the Commissioners in this respect.

We do not even pretend to suggest to the Commissioners in what manner they could best accomplish the objects we have in view; but we must be allowed to remark we are sure those objects could be accomplished, not by requiring any pecuniary assistance from Parliament, but by a mere outlay of a portion of the excess of receipts from inventors over and above the current expenses of the office; which excess, we humbly submit, cannot, in justice to the persons who pay it, be properly considered a surplus until from it there have been provided those matters necessary for the interests of the persons who contribute the money; and among these are, we must venture to urge, a building, as an office for Patents, including in it, a complete library, a commodious reading room, and suitable offices for a proper staff of clerks and others to prepare well-digested and numerous abstracts and abridgments of inventions and processes made public, either by the Specifications of Patents or otherwise, and whether English or foreign.

Praying that the Commissioners will take this matter into their serious consideration.

We have the honour to be
Your obedient humble servants,

(Signed) ROBT. WM. KENNARD, M.P.
and forty-five others.

APPENDIX F.

BETTS' PATENT.

STATEMENT of MR. SPARLING, Solicitor to the Plaintiff BETTS, detailing the several Proceedings at LAW and in CHANCERY, with the Costs of all Parties therein. The Costs of the DEFENDANTS are *estimated*.

	Costs.	
	Plaintiffs.	Defendants.
The first dispute about the validity of this Patent was raised by the patentee's brothers and partners, who contended that as he was a partner in the capsule business he could not have a grant of a Patent for an improvement for his own benefit, and asserted their authority to exclude him from any share in the management of the business. In addition to claiming the Patent as partnership property, his partners also resisted the patentee's right, on the ground that goods had been manufactured and sold before the date of the Patent. Two suits in Chancery were instituted; one by the patentee to restrain his partners from infringing and for a dissolution, the other by his partners to restrain him from dissolving the partnership and praying a declaration that the Patent was partnership property. On the hearing before Vice Chancellor Knight Bruce in July 1851, the Vice Chancellor granted the patentee a dissolution, but, before deciding whether the patentee was a trustee for the partnership or not, he directed an action to try its validity.	£	£
This action was brought and notice of trial given for Hilary Term 1852, when counsel on both sides endeavoured to come to an amicable arrangement, but without success, and notice of trial was again given for the sittings after Trinity Term 1852; but an order of reference was ultimately made, both of Chancery suits and action, to Mr. Biggs Andrews. The reference lasted from June 1852 to December 1856, and by way of compromise of the question as to the ownership of the Patent it was arranged that the Patent should be treated as valid, and that the patentee should pay his partners one-third of the value. The Chancery suit also related to the business of recti-	2,000 - -	2,000.
	1,200 - -	1,200.

	Costs.	
	Plaintiffs.	Defendants.
fiers and brandy distillers carried on by the patentee and his partners in addition to the capsule business; by the award, the patentee was to retire from the spirit business, and his partners were to retire from the capsule business, and to pay him 1,500<i>l.</i> towards his costs of the Chancery suits. Plaintiff's costs in the Chancery suits amounted to about 2,000<i>l.</i>; the action to about 1,000<i>l.</i>; and the reference to about 2,000<i>l.</i>; and the defendants' costs were about the same. The evidence relied on by the patentee's partners, as to the sale before the Patent, depended principally on the evidence of a clerk, discharged by the patentee and reinstated by his partners, named Menzies. The award was made in December 1856, and Menzies then left the employment of the patentees. Pending this arbitration, patentee filed a bill against a Mr. Barlow to restrain an infringement threatened by a Mr. Wildey, a Belgian manufacturer, through his agent, Mr. Barlow; the suit was against Barlow only, and resulted in Barlow giving an undertaking not to infringe, provided 10<i>l.</i> were paid towards his costs; the costs of this suit were about 100<i>l.</i> In March 1857 the patentee discovered that Menzies, as agent for Wildey, was infringing his Patent, and on the 11th March he filed his bill for an injunction both against Menzies and Wildey, and he applied <i>ex parte</i> to Vice Chancellor Wood, on the 11th March 1857, for an interim injunction against both, and obtained it, with leave to give notice of motion against Menzies for the 13th March. Notice was given, and on the hearing the Vice Chancellor extended the interim injunction until the 21st March, and gave leave to serve Wildey, the co-defendant, in Belgium. On the 21st March 1857, the Vice Chancellor granted an injunction against both until after the trial of an action at law. The plaintiff's costs of these proceedings in Chancery were about 260<i>l.</i> The action was tried before Lord Chief Justice Campbell on the 19th and 20th June 1857, and resulted in a verdict for the plaintiff on all the issues, which were the usual ones; not the true and first inventor—not a new invention—no sufficient grant—no sufficient Specification—not guilty. The costs of this action were about 1,200<i>l.</i> In Michaelmas Term the defendants obtained a rule for a new trial on the ground of misdirection, and also for a nonsuit, or to enter the verdict for defendants, on the ground of an old Specification of Thomas Dobbs, enrolled in 1804. On the argument of the rule, the Court called on the defendants' counsel to meet the argument against that part of the rule which related to entering the verdict for defendants, as they were satisfied that there was a misdirection; the defendants then elected to take a new trial, which was granted on the ground that the question left by Lord Campbell to the jury as the test of novelty was too narrow, namely, whether an ordinary workman, on reading Dobbs' Specification, could at once make Betts' metal. The costs of the rule - Betts <i>v.</i> Cooper - „ <i>v.</i> Clifford, 1st action - „ <i>v.</i> Cooksey - In November 1857 the plaintiff commenced three actions against parties infringing his Patent in Birmingham; viz., Cooper, Clifford, and Cooksey; and in December 1857 he filed two bills in Chancery against Cooper and Clifford, and moved for an injunction in one suit against Clifford. The injunction was refused, on the ground that negotiations having been pending some time, the injunction would not be granted until the actions were decided. In February 1858 the plaintiff commenced another action against Clifford, tried at the Warwick assizes in March 1858; the jury found a verdict for the defendant as to novelty, and for the plaintiff as to the infringement. In Easter Term the plaintiff obtained a rule nisi for a new trial on the ground of surprise, a witness having come down from the gallery and sworn that he was accidentally in Court and remembered the process described by the plaintiff being carried on in Birmingham 20 years before. On the argument of this rule the Court discharged it, on the ground that it was not technically a surprise, and that on the 2nd trial of Betts <i>v.</i> Menzies the case could be fully investigated. In November 1858 Clifford and Cooper were in a position to move to dismiss the suits in Chancery, when the plaintiff had to pay about 40<i>l.</i> for the defendant's costs of the motions, and his own costs, which were of about the same amount, and give an undertaking to proceed. About the same time the patentee gave notice for the 2nd trial in Betts <i>v.</i> Menzies, but at the sittings after Michaelmas Term it was made a remanet until the sittings after Hilary Term, when the case was tried, and after six days' trial the jury found a verdict for the plaintiff. The	£ 2,000 - - 100 - - 260 - - 1,200 - - 350 - - 50 - - 50 - - 50 - - Clifford, 2nd action 1,350 - - 40 - -	£ 2,000. 30. 200. 600. 100. Estimate only. 50. 50. 50. 1,200, Reduced, on taxation, to 412<i>l.</i> 5<i>0s.</i> was allowed plaintiff for the issues as to the infringement, and 360<i>l.</i> paid defendants. 40.

	Costs.	
	Plaintiffs.	Defendants.
witnesses actually called were 54 for the plaintiff and 21 for defendants, but nearly as many more were in attendance. After this a summons was taken out by the plaintiff, in the Chancery suits of <i>Betts v. Clifford</i> and <i>Betts v. Cooper</i> , to enlarge publication until the judgment could be obtained in <i>Betts v. Menzies</i> ; before the hearing of this summons the defendants' solicitors suggested a compromise, and a negotiation was entered into for that purpose; pending that negotiation the defendants in <i>Betts v. Menzies</i> obtained a rule for a new trial, or a nonsuit, on the ground of <i>Dobbs' Specification</i> ; on the argument of this rule the Court of Queen's Bench unanimously ordered the verdict for the plaintiff to be set aside, and a verdict entered for the defendants. After this the defendants in <i>Betts v. Cooper</i> and <i>Betts v. Clifford</i> set down the causes in Chancery.	£ 2,850 - -	£ 1,800.
The costs of this rule included in the 2,850l.		
The defendant <i>Wildey</i> having committed a breach of the injunction, the plaintiff moved to commit him. The plaintiff's costs were 147l. Defendant was ordered to pay them, and they were taxed at 92l. between party and party.	147 - -	100.
The plaintiff in <i>Betts v. Menzies</i> gave notice of appeal to the Exchequer Chamber.		
The defendants in <i>Betts v. Menzies</i> in Chancery moved to dissolve the injunction, and the costs of this motion were about 100l. each side. The Vice Chancellor ordered the motion to stand over until after the appeal to the Exchequer Chamber.	100 - -	100.
Pending the appeal to the Exchequer Chamber, the causes of <i>Betts v. Clifford</i> and <i>Betts v. Cooper</i> came on in Chancery, and the Court dismissed <i>Betts v. Clifford</i> with costs, but without prejudice to filing a new bill, and ordered <i>Betts v. Cooper</i> to stand over.	<i>Betts v. Clifford</i> , 400 - - <i>Betts v. Cooper</i> , 170 - -	300. Clifford's costs taxed at 250l. as between party and party. 100.
The defendants in <i>Betts v. Menzies</i> taxed their costs in the Queen's Bench at about 700l., and the costs of the issues found for the plaintiff was taken at 100l. merely for the purpose of ascertaining the amount for which the plaintiff should give security. The plaintiff moved for and obtained a rule to review the Master's taxation, on the ground that he had erroneously allowed the defendants the costs of witnesses. On the return of this rule, it was arranged that it should stand over until after the appeal.	50 - -	30.
The Court of Exchequer Chamber gave judgment in June 1860, when five Judges were in favour of affirming, and two for reversing the judgment of the Queen's Bench.	700 - -	100.
The plaintiff immediately gave notice of appeal to the House of Lords.		
The defendants moved in Chancery to dissolve the injunction. The Vice Chancellor dissolved the injunction, but ordered the costs to be costs in the cause, and the hearing of the cause to stand over until the decision of the House of Lords.	90	£90.
The defendants in the Common Law actions, <i>Betts v. Cooksey</i> , <i>Betts v. Cooper</i> , and <i>Betts v. Clifford</i> , gave the plaintiff notice to bring on the issues for trial. The plaintiff then took out a summons to postpone the trials until the decision of the House of Lords. The Judge ordered the trials to stand over until the decision, unless the defendants would abandon the points under argument as a defence; this the defendants declined to do. The case was argued in the House of Lords in July 1861. The Judges have delivered their opinion, but the House has not yet pronounced judgment.	10, Cooper - 10, Clifford - 10, Cooksey -	10, Cooper. 10, Clifford. 10, Cooksey.
<i>Betts v. Menzies</i> , House of Lords - - -	1,300 - -	200.*
£	14,487 - -	10,370

BETTS' PATENT.

Total costs of plaintiffs in the various suits	- - -	£14,487
Ditto of defendants	- - -	10,370
		£24,857

* In the House of Lords the plaintiff had to pay the expense of printing (210l.), half of which ought to have been paid by defendant.

(3.)—APPENDIX to the EVIDENCE of MR. GROVE.

ANALYSIS of and OBSERVATIONS on the LAW of FRANCE. Paper by W. R. GROVE, Esq., Q.C.

Letters Patent in France are regulated by the law or Statute of the 5th of July 1844. This Act contains provisions for the granting and duration of Patents, the payments to be made to the State for them, the manner of enforcing Patent rights, and the annulling of bad Patents. Its principal enactments are as follows:—

Patents may be granted for any new invention or discovery by which a new industrial product (*produit industriel*) is obtained, or which, by the invention of new means, or the new application of known means, produces a *result* in an industrial product. (Arts. 1, 2.)

From this enactment medicines and *financial combinations* are specially excepted. (Art. 3.)

Patents may be granted for five, ten, or fifteen years, and the tax to be paid for them is 500, 1,000, and 1,500 francs, according to the duration of the Patent. This tax is to be paid yearly in sums of 100 francs. If a year passes without payment the Patent lapses. (Art. 4.)

In order to obtain a Patent the inventor must send to the prefecture of his department his application, addressed to the Minister of Agriculture and Commerce, together with a full description of his invention, and such drawings or *samples* as may be necessary for understanding the description.

A duplicate of the description and drawings is to be sent.

The duration of the Patent dates from the delivery of the application, &c.

The applications, &c. are sent from the prefecture to the Ministry of Agriculture and Commerce, where they are registered, and from whence the Patent is sent to the inventor. (Arts. 5, 6, 7, 8, 9, 10.)

The Patents are delivered without any preliminary examination, at the inventor's risk, and without guarantee of any kind on the part of the Government, either of the novelty or merit of the invention or of the correctness of the description. (Art. 11.)

All Patents granted will be officially announced in the "Bulletin des Lois" every three months. (Art. 14.)

Patents can only be prolonged by a Statute. (Art. 15.)

A patentee or his assignee may take out a "certificate of addition" for any improvement on his invention which will give him Patent rights for the improvements during the duration of the original Patent. For this certificate he pays 20 francs. (Art. 16.)

He may, if he thinks fit, take out instead an independent Patent for such improvement, and has the exclusive privilege of taking out such independent Patent or certificate of addition during one year from the granting of the original Patent. Any person desiring a Patent for an improvement on another's Patent during the first year of that Patent's currency must send in an account of his invention sealed up; at the end of the year the document will be opened and the Patent sent, the original patentee having in all cases the preference. (Arts. 17, 18.)

The patentee of an improvement on a patented invention cannot use the original invention without permission, nor can the holder of the first Patent use the improvement without permission. (Art. 19.)

A Patent may be assigned in whole or in part. The assignment must be registered at the prefecture, whence a notification is sent to the Ministry, where it is also registered.

The assignee may profit by any "certificates of addition" subsequently granted to the patentee, and the patentee, if he retains any share in the Patent, may profit by "certificates of addition" granted to the assignee.

The whole of the tax must be paid on assignment. The descriptions, &c. of the invention are to remain until the expiration of the Patent at the Ministry, where information regarding them will be given free of cost to any one seeking it.

Any person may obtain, on paying for it, a copy of such description, &c. (Art. 23.)

After the payment of the second year's tax the descriptions, &c. are to be published, either in whole or in part, and there is also to be published at the commencement of each year a catalogue of the Patents delivered during the preceding year. One of these catalogues is to be kept at the Ministry and one at each Prefecture. After the expiration of the Patent the original descriptions are to be deposited at the "Conservatoire des Arts et Metiers." (Arts. 24, 25, 26.)

Patents may be granted in France to foreigners, and may be granted for *inventions already patented abroad*, but in such cases the Patent granted in France only lasts as long as the original Patent. (Art. 27, 28, 29.)

Patents are void, if the alleged invention is not new, if it comes within the terms of Art. 3 as unpatentable, if it relates to a theoretical principle or discovery without indicating a practical application, if the object of the invention is opposed to public policy, if the patentee has *fraudulently* given a wrong title to his Patent, or if the description is insufficient.

A Patent taken out in contravention of the Article giving the original patentee a year's privilege, is also void.

Certificates of addition for matters not really relating to the principal invention are also void. (Art. 30.)

No invention is to be held new which has, either in France or abroad, been before the application for the Patent sufficiently known to *enable* people to use it.

A patentee loses his right if he does not pay his tax, or if he has not, within *two years from the granting of the Patent*, got his invention into use (*mis en exploitation sa decouverte*), or if he has ceased to work (*exploiter*) it during two consecutive years, unless he can in either case bring forward good reasons for his inaction. (Art. 32.)

In all mentions of the Patent in advertisements, &c., the patentee must insert the words "sans garantie du Gouvernement," under penalty of a fine of from 50 to 1,000 francs. (Art. 33.)

An action for avoiding or annulling a Patent may be brought by any person interested in the matter. The law officer of the Government may, if he thinks fit, make himself a party to the suit, or bring an action himself in some cases.

Any inroad upon the patentee's rights, either by manufacturing the patented article or using the patented machinery, constitutes an infringement of the Patent. This infringement is punishable by a fine of from 100 to 2,000 francs. (Art. 40.)

Persons who knowingly sell, or expose for sale, or introduce into French territory patented articles are liable to the penalties for infringement.

The penalties are not cumulative. (Arts. 40, 41, 42.)

Where judgment for infringement is pronounced against a person who has been convicted of an infringement of the same Patent within five years previous to the date of such judgment, he may be punished by imprisonment of from one to six months. The same punishment may be pronounced against a workman of the patentee who infringes the Patent, or against a third person combining with such workman. (Art. 43.)

These proceedings are to be regulated by Art. 43 of the penal code. (Art. 44.)

The authorities can only take proceedings for the infringement of Patent rights on the complaint of the person injured. (Art. 45.)

(N. B. I gather from the language of the Statute that the only mode of vindicating Patent rights is by a penal proceeding carried on in the name of the State.)

The tribunal, (called in the Statute the "Tribunal Correctionnel,") in deciding on these cases is to consider all objections brought forward by the defendant either to the validity of the Patent or the ownership of the plaintiff. (Art. 46.)

Inspection may be granted, and if necessary, seizure made of the articles the manufacture or using of which constitutes the alleged infringement. Where there is a seizure, the plaintiff may, if necessary, be required to give security (*cautionnement*), which is always to be required from a foreign plaintiff demanding a seizure. (Art. 47.)

Articles made and machinery used in violation of patent rights are to be confiscated without prejudice to the right of the plaintiff to damages. (Art. 49.)

(N.B. This is the only mention of damages. I am unable to gather from the preceding sections of the Statute what power the plaintiff has of recovering damages.)

In a circular dated the 20th December 1854, and addressed by the Minister of Agriculture and Commerce to the Chambers of Commerce and to the Consulting Chamber (*Chambres Consultatives*) of Arts and Manufactures, the minister states that the law of July 1844 is stated to be defective in certain respects, and that some changes in it are proposed; these he enumerates, the principal ones are as follows:—

1. The propriety of excluding medical preparations from the privileges of Patents is questionable, on general grounds, and also because the rule tends to violate the principle of “*sans examen préalable*,” as the Government has to examine inventions submitted to it, in order to ascertain whether they come within the prohibited class.

The exclusion of financial operations seems superfluous, and also objectionable on the same grounds as the last.

2. The amount payable for Patents has been considered by some as too great, and the duration of Patents too short.

3. The division of Patents into 5, 10 and 15 years is superfluous, inasmuch from the manner of paying the tax on them, the patentee can determine his Patent in any year.

4. It is suggested that there is no use in obliging inventors to furnish *samples* of their manufactures.

5. The Article (18) giving the patentee advantages in taking out certificates of addition on Patents for improvements on his invention during the first year of his invention, has been found to work injuriously in some respects. The Article 23 giving everybody a right of obtaining copies of the descriptions, &c. of the invention immediately after the granting of the Patents, has been found to produce evil in some respects, as in some cases foreign Patents in imitation of the French one are immediately taken out. To obviate this it is proposed that the descriptions, &c., should not be communicated to the public until six months after the granting of the Patent.

6. Article 20 makes it necessary when the Patent is assigned to pay the whole of the tax; it is proposed to abrogate this provision.

7. Patents of which the second year's tax has been paid, are inserted in full in the official catalogue under Article 24. The publication costs a considerable sum of money; it is proposed that important Patents only should be placed in it.

8. Article 31, which declares that no invention which before the date of the Patent has been known shall be considered new, is complained of as too vague and general.

9. Article 34, rendering the Patent void in case of failure to pay the tax, is complained of as not clearly stating whether, under these circumstances, a Patent becomes void or merely voidable. It is proposed to give the Administration the power of declaring a Patent void under these circumstances.

10. It is proposed to substitute for the words “*sans garantie de Gouvernement*” simply “*sans examen*.”

11. It being a matter of considerable difficulty for ordinary tribunals to decide on Patent cases, owing to the peculiar nature of the questions raised, it has been proposed to create at Paris a jury of experts

(*juré special*), analogous to ten “*conseils de prud'hommes*” in commercial cases, to adjudicate in these cases.

On all these questions the Minister requests the advice of the Chambers of Commerce, &c.

To this circular the Society for the Encouragement of National Industry returns a set of answers and observations, the most important of which are as follows:—

They propose that the duration of Patents should be extended from 15 to 20 years, and that the Government by a legislative enactment should be able, as it is in England, to grant extensions in some cases.

That there should be constituted in each of the principal industrial towns of France, Paris, Lyons, Rouen, Lille, Mulhouse, &c., a “*tribunal consulaire industriel*” for the trial of Patent cases. This tribunal would be in some respects analogous to the “*Tribunaux de Commerce*” existing in France, and would be divided into three Chambers, which would consist respectively of men acquainted with chemical science, with the mechanical arts, and of manufacturers of woven fabrics. To one of these Chambers all Patent cases would be sent for decision.

The law of Patents in France would seem to differ from ours in the following particulars:—

1. The Patent is granted on the mere demand of the inventor, without any preliminary examination, and it is expressly stated in the Act that the Government in no way guarantees the merit or novelty of the invention or the fidelity of the Specification (*description*). (Art. 11.)

In order the more fully to carry out this principle, the patentee is obliged, in all advertisements, &c., of his Patent, to insert the words “*sans garantie du Gouvernement*.”

The circular of the Minister, however, contains a proposal to change this form of words into “*sans examen*,” as the former words had led to mistakes on the part of the public, and it has been found impossible to carry on in practice this provision of the Act. (P. 20.)

2. The inventor or his assignees have the exclusive right of taking out certificates of addition for improvements in the invention for which they hold a Patent. These certificates of addition cost only 20 francs, but they expire with the original Patent. (Art. 16.)

If, on the other hand, the holder of the Patent chooses to take out an independent Patent for the improvement, or a certificate of addition, he has the exclusive right of doing so during the first year of the Patent's duration. (Art. 18.)

This provision is pointed out by the minister as in some respects objectionable. (P. 17, 18.)

3. The tax or duty payable on Patents is virtually 100 francs a year, payable yearly during the currency of the Patent. Failure to pay this in any year invalidates the Patent. (Art. 4; and see the observations of the minister, p. 16.)

4. The duration of Patents can only be extended by an Act. (Art. 15.) The Society for Encouragement of National Industry proposes in its report a system of extension to resemble the English one.

5. The Act contains a provision that no Patent can be granted for an invention already known in France or abroad. (Art. 31.) There is however a statement that a Patent may be taken out for an invention already *patented abroad*. (Art. 29.)

6. The Act contains a provision that a Patent shall lapse if the patentee does not put his invention into use within two years from the date of the Patent, or if he ceases to work (*exploiter*) it for two consecutive years. (Art. 32.) Neither the Minister nor the Society make any observations on this section, which has, I presume, become practically inoperative.

7. Actions to vindicate Patent rights would seem to be quasi penal proceedings, prosecuted before the “*Tribunal Correctionnel*.” (Art. 40 to 49.)

(3).—APPENDIX to the EVIDENCE of MR. CLODE.

Paper A.

MEMORANDUM.

The embarrassments arising in the department of the Secretary of State for War from the present terms of the grant of Patents for instruments or munitions of war, form the subject of this Memorandum.

It is scarcely necessary to premise that the defence of the realm is the paramount duty of the Crown, and one that it cannot relinquish. "I confess," said Sir Richard Huxton in Hampden's case, "there are some inseparable prerogatives belonging to the Crown such as the Parliament cannot sever from it, and I will prove to you out of the bookcases and statutes that the king cannot release his tenure *in capite*. It was endeavoured that a law should be made that the Court of Wards should be shut up; it was resolved it had been a void law. Such is the care for the defence of the kingdom which belongeth inseparably to the Crown as head and supreme protector of the kingdom, so that if an Act of Parliament should enact that he should not defend the kingdom, or that the king should have no aid from his subjects to defend the kingdom, these acts would not bind, because they would be against natural reason."

Many articles are patented that can only be useful for the purpose of national defence or destruction.

Take for the first illustration Palmer and Nugent's multiple gun, by which 500 charges can, it is said, be thrown against a regiment in a few seconds; and for the second, any Patent for armour plates to war steamers or fortresses.

The Patents for the multiple guns are granted to aliens, and the Crown is entirely in their hands as to a supply which, when ordered, is to be sent from America.

As a rule all instruments and munitions of war are now made in the royal arsenals and factories, to save cost and secure quality.

The policy of the Crown becoming a manufacturer of instruments and munitions of war, receives by annual votes the explicit sanction of Parliament.

The Ordnance Select Committee have been very frequently impeded in the prosecution of inquiries tending to the greater efficiency of Her Majesty's forces by real or pretended legal right of Patentees.

To quote recent examples:—

Messrs. Brown and Webb claimed the exclusive right to employ gunpowder in a compressed state.

Mr. Lancaster claimed the exclusive right to fire rockets under water.

The Whitworth Ordnance Company claimed the exclusive right to make projectiles with flat fronts.

Mr. Ramsar claimed compensation for the supposed adoption by the Royal Carriage Department of means of checking the recoil of guns by elastic springs or buffers.

Mr. McKay, who has patented a great variety of unusual forms of shot, recently threatened the Committee with legal consequences if any of them were tried without his concurrence.

Captain Blakeley attempted to interfere in the manufacture of Armstrong guns as an infringement of his Patent.

Messrs. Church and Goddard made a similar attempt on other grounds; and speaking generally, the Committee remark it may be asserted, "that it is scarcely possible to propose a new arrangement of breech-loading, or new mode of rifling, or a new description of projectile, which shall avoid known defects and embrace known excellencies, without finding some of the details anticipated by Patentees and claimed as private property, although they are only component parts of a system to which, as a whole, none of these Patentees can lay claim."

"The foregoing examples, which might probably be extended by referring to records of earlier date, will suffice to show that, if Her Majesty's service is not seriously obstructed by the facility with which Patents are at present granted for warlike inventions, which the Crown alone can, for the most part, make use of, it is not for want of intention on the part of Patentees to enforce their rights; but from other causes, the first of which is the worthlessness of the great majority of the so-called inventions patented, and the second the small proportion which really new discoveries or appliances bear to those which are only supposed to be new by ignorant or interested parties, but on examination turn out not to be so. These conditions are no security that serious inconvenience may not some day accrue."

At present the only protection against the abuse of monopoly inserted in the Patent is the following proviso: "And also that if the said [Patentee], his executors, administrators, or assigns, shall not supply, or cause to be supplied for our service all such articles of the said invention

"as he or they shall be required to supply by the officers or Commissioners administering the department of our service for the use of which the same shall be required in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or Commissioners so requiring the same; then, and in any of the said cases, these our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding."

Under this proviso, the Crown by *sci. fa.* may (it is assumed) annul the Patent if the Secretary of State could show to the Lord Chancellor (*inter alia*) that the Patentee would not furnish supplies at "reasonable prices."

The difficulty of ascertaining what are "reasonable prices" for instruments and munitions of war cannot be better illustrated than by reference to evidence laid before the House of Commons, 25th July 1862, on the subject of "Ordnance," 448.

Now the difficulty of assessing "reasonable prices," even with permission to use the Patent for such manufacture, will be seen if the evidence given before that Committee be referred to; but, without entering into detail, the great disparity shown by the following figures will for the present purpose be sufficiently conclusive.

If the supply of guns had been made on Sir W. Armstrong's prices of December 1858, the Crown would have paid the contractor (at least) - - - £757,000
If at the price of February 1862 - - - £320,560
Whereas the Crown paid - - - £416,430

The proviso as it now stands has never been acted upon by the War Department, and is practically useless.

The grant of Patents for such inventions are in other respects inconvenient; for not unfrequently the officers of the Crown working in its factories patent inventions resulting from their own employment.

Again, to secure to the Crown the inventions of its own officers made within the royal arsenals and factories, it is suggested that Patents are necessary, or that other persons will by chance hear of the invention, known but advisedly kept secret by the Crown, and obtain exclusive use thereof.

Another objection to a Patent for any really valuable invention, is the publicity attendant upon it.

The equipment of the British army must (as it has been repeatedly enforced on the attention of Parliament) be not only equal, but greatly superior to that of the continental armies, or the certain disparity in numbers would place the British army at an overwhelming disadvantage.

In 1858 (and the same practice may still exist), it was the practice of our Patent office to send the Specifications of English inventions, as soon as they were published, to Paris, Berlin, &c., and it was ascertained that Sir W. Armstrong, by patenting his time and percussion fuze in April 1858, had, by so doing, given it (by making it known) to foreign powers, although his own sovereign could not use it till he subsequently assigned it to the Secretary for War.

The disclosure made by the Patent (as the least injury caused thereby) puts this country and foreign powers upon an equality of intelligence, but if the Patentee refuses to grant it to the War Department, he places the Crown at a serious disadvantage with foreign powers.

On this aspect of the question the Ordnance Select Committee write as follows:—

"From the days when Friar Bacon involved the composition of gunpowder in a Latin anagram, down to the present time, there has always been a remarkable tendency to shroud discoveries and improvements in artillery in mystery, and to communicate them only under the seal of secrecy; it is a tradition, and has become a habit difficult to break through, an exaggerated sense of the importance of each little improvement, or discovery, an exaggerated estimate of the importance of being beforehand with opponents, has induced one generation of artillerymen, and one Government after another, to attach a value to such secrecy in this particular department of mechanical progress, which in the opinion of the Committee can neither be justified by experience or vindicated on rational grounds."

The mode of action of the shrapnel shell was kept a secret for many years, and it had the effect perhaps of preventing the adoption of that projectile by the French during the Peninsular war, but it is very doubtful whether it contributed in any sensible degree to the superiority of the British artillery, while it gave rise to such an overestimate of its importance and destructive effect as led to its being supplied in far too large a proportion, and frequently used when shot and shell would have been more

effective, and one of the first steps of the Committee of revision of 1819, under the Duke of Wellington's orders, was to make a very large reduction in the proportion.

The composition of the congrue rocket is and has always been treated as an absolute secret, but it has not given us any monopoly of that weapon, on the contrary, our rockets are at present in a very unsatisfactory state, and every foreign power has rockets which they consider as good or better.

The construction and mode of action of the Moorsmoo fuze was a secret from officers of the Royal artillery down to 1857, when a full account was published in Belgium, and translated into English for their information by Captain Orr, R.A., but the Committee are not aware that we reaped any naval success in the Baltic or elsewhere from our secrecy with respect to this fuze. In short, without multiplying instances, it may be asserted generally, that secrecy in these matters is almost always a self-delusion, and is more frequently injurious than otherwise when it is real. Foreign military improvements are disregarded by us, and ours by foreign nations, not from ignorance, but because each country is wedded to its own notions and habits, is slow to admit the superiority of anything foreign; because what suits the temperament or education of one people does not necessarily suit another; because an improvement which involves little alteration of material or change of ideas in one case may be attended with insuperable difficulties in another, or be precluded by the expense it involves.

"Looking to these facts, and to the increasing difficulty of maintaining secrecy, even if it were desirable to do so, the Committee do not apprehend the slightest public inconvenience from the free patenting and publication of inventions, provided the Government reserves its own liberty of action, and its right to make or use improvements in material of war in its own establishments."

In earlier times than the present, the statute law affecting the manufacture of and commerce in instruments and munitions of war, would appear to have been as follows:—

Under the 24 James I. c. 3., all monopolies were void, save (under sec. 10.) any Commission, Grant, or Letters Patent for or concerning the making or compounding of saltpetre or gunpowder, or the casting or making of ordnance, or shot for "ordnance;" the object of such commissions being (as we may gather from the case of the King's prerogative in saltpetre in Lord Coke's Reports, 12 Coke 14), "to provide a store for the Queen [Elizabeth] at a lower rate than before was paid."

In the 16 Car. 1., and Act was passed (Ch. 21.), for the free bringing in of gunpowder and saltpetre from foreign parts, and for the free making of gunpowder within the realm, the last section (3) enacting, "that if any person or persons shall put in execution any Letters Patent, proclamation, edict, act, order, warrant, restraint, or other inhibition whatsoever, whereby the importation of gunpowder, saltpetre, brimstone, or other the materials aforementioned, or any of them, from foreign parts, or the making of gunpowder within this realm, shall be any way prohibited or restrained that then the said person and persons so offending, shall incur and sustain the pains, penalties, and forfeitures contained and provided in the statute of provision and premunure, made in the sixteenth year of the reign of King Richard the Second."

The next Act (1 James II., c. 8), after setting forth the great prejudice and discouragement to gunsmiths and others, arising from importation, &c., prohibited such importation except with the license of the Crown, and the 3rd section of the Act was in these words:—

"Provided always, that if any person or persons, whatsoever, bodies politic or corporate, shall by colour of this Act or otherwise, obtain from His Majesty, his heirs or successors, any Letters Patents, license of grant, for the sole making or importing any gunpowder, arms, ammunition, or other utensils of war, and shall put the same in execution, or by color thereof molest or hinder any person or persons who lawfully make any the things before mentioned in this kingdom, or shall obtain any Letters Patents, license, or grant, for the importing of gunpowder, arms, ammunition, or other utensils of war, by way of merchandise to make profit thereof, other than for the immediate furnishing of the public stores of His Majesty, his heirs and successors, that then the person and persons so offending shall incur and sustain the pains, penalties, and forfeitures contained and provided in the statute of provision and premunure made in the 16th year of the reign of King Richard the 2nd, and be disabled to hold any office or employment under His Majesty, his heirs and successors, and all and every such letters, license, patent, and grant,

and every of them for the sole making and importing the said commodities shall be void to all intents and purposes as if the same had never been had or made, any clause of non obstante or other provision or covenant to the contrary thereof in anywise notwithstanding."

From the year 1685 until the consolidation of the Custom Acts by Mr. D. Hume in 1825, this declaration against any grant of a monopoly in munitions of war remained in the statute book.

With respect to a remedy recently proposed, namely, "to make the previous consent of the Crown, signified by the Secretary of State (with or without special terms or conditions), an indispensable requisite in the grant of any future Letters Patent of this kind," the Ordnance Select Committee on being referred to wrote thus:—

"We apprehend great difficulty in the working of such a clause, from the impossibility of drawing a line between inventions which have or may have a directly military bearing, and those which *primâ facie* only concern the gun trade, or the manufacture of material of war in commerce, and they would venture to suggest in preference a general enactment that no Patent right shall be of force to prevent the Crown from manufacturing or repairing warlike material in its own departments, or from employing for such purposes the materials, forms, processes, and machinery found most suitable, leaving the Crown in the same position as any other purchaser in respect to articles not repaired or manufactured in Royal establishments."

The remedy that most readily suggests itself to meet the present difficulties is to amend the proviso now inserted, by adding to it that the Patent shall not be construed to prevent the use of the invention by the Secretary for War, or his officers or contractors, but "without prejudice to such compensation as the Patentee may claim and the Secretary of State may agree to give, or, in case of difference, which the Treasury shall award."

The use would then be free and open to the War Department. The officers of it have no desire to deprive any fellow subject of his just rights, but to be embarrassed with the difficulties of a previous negotiation, which they have no power to bring to a successful termination before they can ever try whether the invention is or is not of any real practical utility, places both the inventor and the Secretary of State in a false position.

The objection that has been urged to this proviso, viz., that it would destroy the character of the grant as a grant of monopoly, appears to be met by the decision of the Privy Council in Pettit Smith's case. There the Judicial Committee, in advising the Crown to renew the Patent, directed that the following proviso should be added to the Patent:—"That it shall be lawful for the Lord High Admiral of the United Kingdom of Great Britain and Ireland, and for the Commissioners for executing the office of High Admiral for the time being, to contract with any person or persons whomsoever for the manufacture and fitting, and cause to be manufactured and fitted by any person or persons whomsoever, at any time or times, and at any place or places whatsoever, the said Invention, for the service of Her Majesty and Her Majesty's heirs and successors: such person or persons shall be at liberty to manufacture and fit the same accordingly, for the service of Her Majesty, Her heirs and successors, without any licence, let, or hindrance from the Patentee, his executors, administrators, or assigns, and without the Patentee, his executors, administrators, or assigns, being entitled to any compensation or damages whatsoever for the same; and that there should also be a condition, that if the Patentee, his executors, administrators, or assigns, shall not supply or caused to be supplied and fit or cause to be fitted for Her Majesty's service the said invention as he or they shall be required to supply or fit the same, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Lord High Admiral of the United Kingdom of Great Britain and Ireland, or by the Commissioners for executing the said office for the time being, then that the said Letters Patent shall be void."

CHAS. M. CLODE.

War Office, June 1864.

Paper B.

A.D. 1623-24.—21 James I. c. 3.

Provided always, and be it enacted, that this Act, or any declaration, provision, disablement, penalty, forfeiture, or other thing before mentioned, shall not extend to any commission, grant, or Lres Patent heretofore made, or here-

after to be made, or for or concerning the digging, making, or compounding of saltpeter or gunpowder; or the casting or making of ordinance; but that all and every the same graunt, comission, and Lres Patent, and all other matters and things tending to the maynteyning, strengthening, or furtherance of the same, or any of them, shalbe and remayne of the like force and effect, and no other, and as free from the declarations, provisions, penalties, and forfeitures contained in this Act, as if this Act had never been had nor made, and not otherwise.

A.D. 1640.—16 Charles I. c. 21.

An Act for the free bringing in of gunpowder and salt-powder from forraign parts, and for the free making of gunpowder in this realme.

Whereas the importation of gunpowder from forreign parts hath of late times bene against law prohibited, and the making thereof within this realm ingrossed, whereby the price of gunpowder hath bene excessively raised, many powder works decayed, this kingdom very much weakened and endangered, the merchants thereof much damnified, many mariners and others taken prisoners and brought into miserable captivity and slavery, many ships taken by Turkish and other pirates, and many other inconveniences have from thence ensued, and more are likely to ensue, if they be not timely prevented: Be it therefore declared and enacted, by the King's most excellent Majestie, and the Lords and Commons in this present Parliament assembled, and by the authoritie of the same, that it shall and may be lawful to and for all and singular persons as well as strangers as natural born subjects of this realm to import and bring into this kingdom any quantities of gunpowder whatsoever, paying such customes and duties for the same as by authority of Parliament shall be limited and set downe.

And be it further declared and enacted, by the authority aforesaid, that it shall and may be lawful to and for all and singular His Majesties subjects of this his realm of England to make and sell any quantities of gunpowder at his and their will and pleasure, and alsoe to bring into this kingdom any quantities of saltpeter, brimstone, or any other materials necessary or requisite for the making of gunpowder.

And lastly, be it enacted by the authority (aforesaid), that if any person or persons, from and after the 10th day of August 1641, shall put in execution any Letters Patents, proclamations, edict, act, order, warrant, restraint, or other inhibition whatsoever, whereby the importation of gunpowder, saltpeter, brimstone, or other the materials aforesaid mentioned or any of them, from forraign parts, or the making of gunpowder within this realm, shall be any prohibited or restrained. That then the said person and persons so offending shall incurre and sustain the pains and penalties and forfeitures contained and provided in the statute of provisions and premunire made in the 16th yeare of the reign of King Richard the 2nd.

A.D. 1685.—1 James II. c. 8.

An Act against the Importation of Gunpowder, Arms, and other Ammunition and Utensils of War.

Whereas to the great prejudice of this kingdome and the discouragement and impoverishment of the gun smiths, and others, artificers, great quantities of arms and ammunition, have of late years bene imported to the endangering the peace and quiet of this kingdome.

2. For remedy whereof bee it enacted by the King's most excellent Majestie, by and with the advice and consent of the Lords spirituall and temporall, and the Commons in this present Parlyament assembled, and by the authoritie of the same, that it shall not at any time from and after the 10th day of July 1680, be lawfull to or for any person or persons whatsoever without licence from His Majestie, His heires and successors to import or bring into this kingdome of England, dominion of Wales, or towne of Berwicke upon Tweede, by way of merchandize any gunpowder, arms, ammunition, or utensills of war upon paine and forfeiture of all and every such goods soe imported as aforesaid to His Majestie, His heires and successors, and the person or persons who shall soe import or bring in the same, or in whose custodie any such gunpowder, arms, ammunition

or utensills of war shall be found, being thereof lawfully convicted, shall forfeite treble the value of the goods soe imported, one moyety thereof unto His Majestie, His heires and successors, and the other moyety thereof to such person or persons who will sue for the same by action of debt, bill, plaint, or information in any of His Majesties Courts of Record at Westminster, wherein noe essoigne, protection, or wager of law shall be allowed.

3. Provided always, that if any person or persons whatsoever, bodies polittique or corporate, shall by colour of this Act or otherwise obtaine from His Majestie, His heires or successors, any Letters Patents, licence, or grant, for the sole making or importing any gunpowder, arms, ammunition, or other utensills of war, and shall putt the same in execution, or by colour thereof molest or hinder any person or persons who lawfully make any the things beforementioned, in this kingdome, or shall obtaine any Letters Patents, licence, or grant for the importing of gunpowder, arms, ammunition, or other utensills of war, by way of merchandize to make profit thereof other than for the immediate furnishing of the publique stores of His Majesty, His heires and successors, that then the person and persons soe offending, shall incurre and sustaine the paines, penalties, and forfeitures contained and provided in the statute of provision and premunire, made in the 16th yeare of the raigne of King Richard the Second, and be disabled to hold any office or employment under His Majestie, His heires and successors, and all and every such Letters, licence, Patent, and grant, and every of them for the sole making and importing the said commodities, shall be void to all intents and purposes, as if the same had never bene had, or made any clause of non obstante or other provision or covenant to the contrary thereof, in anywise notwithstanding.

A.D. 1825.—6 George IV. c. 105.

An Act to repeal the several Laws relating to the Customs.

Whereas the laws of the Customs have become intricate by reason of the great number of the Acts relating thereto which have been passed through a long series of years: And whereas it is therefore highly expedient for the interests of commerce and the ends of justice, and also for affording convenience and facility to all persons who may be subject to the operation of those laws, or who may be authorized to fact in the execution thereof, that all the statutes now in force relating to the Customs should be repealed, and that the purposes for which they have from time to time been made should be secured by new enactments exhibiting more perspicuously and compendiously the various provisions contained in them: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the 5th day of July 1826, so much and such parts of the several and respective statutes herein-after mentioned and recited, made in the Parliaments of England and of Great Britain respectively, as relates to the trade and navigation of this kingdom, or to the importation and exportation of goods, wares, and merchandize, or as relates to the collection of the revenue of Customs or prevention of smuggling, as are herein-after set forth, shall be repealed.

26. An Act passed in the first year of the reign of King James the 2nd, intituled An Act against the importation of gunpowder, arms, and other ammunition and utensils of war.

444. And be it further enacted, that the said several Acts and parts of Acts before mentioned, recited, and set forth, so far as the same shall be in force at the time of the commencement of this Act, are hereby accordingly repealed, except so far as the said Acts, or any of them, or anything therein contained, repeal any former Act or Acts, or any part thereof, and all and every which said Act or Acts, or the parts thereof so repealed, shall remain and continue repealed to all intents and purposes whatsoever, and except so far as relates to any arrears of duties or drawbacks which shall have become due and payable, or any penalty or forfeiture which shall have been incurred, and save and except so far as any of the said Acts which relate to Ireland create or regulate any jurisdiction for the trial of offences committed in Ireland.

(5).—APPENDIX to the EVIDENCE of Mr. WEBSTER.

REPORT of COMMITTEE of BRITISH ASSOCIATION and of the SOCIAL SCIENCE ASSOCIATION on the AMENDMENT of the PATENT LAWS. A.D. 1860.

At the Meeting of the Association held at Bradford in 1859 a Committee was appointed to co-operate with a Committee of the British Association, held at Aberdeen in the same year, to consider and report on the best means to be adopted for affording better protection and security to property in inventions, and for obviating the objections made to the operation and working of the Patent Laws.

The report and discussion at the meeting out of which, on the suggestion of your highly valued member the Right Honourable Joseph Napier, the subject was brought under the consideration of this Association, had special reference to the temptation and encouragement afforded by the state of the law to speculation in obtaining, infringing, and litigating Patent rights, to the consequence of the inducements to issue Patents, and to the application of the funds levied on inventors as fees on the granting of Patent rights; the remedy to be applied in this case would appear to be a fitting subject for the section of jurisprudence and amendment of the law of this Association. Many important and beneficial changes were made in the Patent laws by the Patent Law Amendment Act of 1852, and much praise is due to those who persevered in obtaining that instalment of reform. That measure was limited almost exclusively to the alteration of the system of granting Patents, the increased protection for such property being left advisedly for further legislation. Existing interests prevented so ample a measure of reform in this limited sphere being effected as the promoters of the Act desired, but any change was thankfully received as a great improvement on the existing system; but here, as not unfrequently happens in the progress of reform, the removal of one evil gave rise or importance to others in the progress of the working and development of the new system.

Previous to the passing of this Act the cost of obtaining Letters Patent was so great that many inventors were deprived of that protection for their inventions to which they were justly entitled, the consequence was injustice to individuals and loss to the public; the stimulus to invention no longer operated; men of small means did not think it worth while to tax their ingenuity for inventions of which they were unable to secure the benefit; or, as was sometimes the case, valuable inventions were locked up and kept from the public simply because the possessor could not afford to pay the price of protection. By the above Act a new system was introduced, and the cost of obtaining a Patent reduced to such sum that the privilege of protection was no longer limited to the rich inventor. Previous to the passing of this Act the complaint was that Letters Patent were too costly to be often applied for; now it is that too many are granted; that the cost is so small, and the facility of obtaining so great, that claims of all kinds, however frivolous or absurd, and without even the merit of novelty, are made the subjects of Patent privilege. The consequence is, that the community is deluged with invalid and worthless Patents, which serve no other purpose than to harass the public, obstruct the progress of invention, encourage litigation, and in some cases serve as instruments of oppression. A return to high charges would no doubt remove the evil by lessening the number of applicants: such a retrograde movement, however, is out of the question; recourse cannot be had again to high charges and exorbitant fees, which acted as a check, not on the bad Patent, but on the poor man, and consequently some other remedy must be found. It is unnecessary to do more than advert to the evil effects produced by the too indiscriminate granting of Letters Patent, they are too manifest to require further comment. The question is, how the evil may be remedied without infringing upon the rights which inventors have to property in inventions, the product of their own brains, even though such inventions should be worthless, or to some extent anticipated by others. Examination and investigation, and a report by competent persons, has been naturally suggested as an obvious remedy. The effect to be given to the result of such an examination will be presently considered, but one thing is certain, that without a preliminary examination of this kind it is impossible to decide whether the invention is or is not deserving of a grant.

In the evidence before the Select Committee of the House of Lords, upon which the Patent Law Amendment Act was based, the evils which have arisen from reducing the costs of Patents were in a great measure anticipated, and the question of a check being placed upon the granting of Patents, through the medium of a preliminary examination, was fully discussed. Strong opinions were

expressed in its favour by nearly all the witnesses who were examined. They differed, however, in their opinions as to how the result of the examination should operate. By some it was thought that the system pursued in America should be adopted, and a grant refused, if the report upon such examination should be unfavourable to the novelty or utility of the invention in respect of which the Patent was applied for. Others considered that a grant ought not in such case to be refused; but that the applicant should, notwithstanding such adverse report, be at liberty to prosecute his claim; such report, however, being placed on record against him, believing that few applicants would, in the face of an adverse report from competent and independent authority, pursue the application, incur the cost, and encounter the risk of an invalid Patent, but would withdraw their application. Against the former and in favour of the latter opinion, it is urged that the American system is not satisfactory, and is in danger of breaking down altogether from an attempt to do too much; that any attempt to give a guaranteed title must be an inevitable failure. We incline to the opinion that it would be very undesirable to make the result of such examination the ground for refusing a grant of Letters Patent, even although such result had been to show that the invention had neither novelty, originality, nor utility.

In the first place, if a Patent were to be refused for want of novelty, originality, or utility, it would be necessary that the investigation should be of the most searching and accurate character. A mere *ex parte* examination by scientific men would not suffice; but facts would have to be ascertained and evidence sifted, which would require all the machinery of a court of justice.

In the second place, an investigation of the merits of the invention, in respect of these particulars, could not satisfactorily be made, seeing that, as regards novelty and originality, these may depend upon facts which time and inquiry can alone bring to light; and that as regards utility, which must, to a great extent, be matter of speculation, the opinions of the most able and scientific men on inventions greatly in advance of the existing practice are, as experience has shown, but of little value. Great inventors must be in advance of the age; they and their inventions have to encounter the combined opposition of interest and ignorance.

Thirdly. If the tribunal were to be so constituted, as it ought to be, if upon its decision were to depend the granting or refusal of a Patent, we should then have this anomalous state of things,—the decision must be either against or in favour of the invention. If against, then the grant is refused, and (subject, of course, to a right of appeal) nothing more is heard of the matter; but if the decision were to be in its favour, and the grant thereupon made, and an action for infringement were subsequently to be brought upon it, then the decision of a tribunal possessing all the qualifications for determining the matter in question would be liable to be reversed by one in every respect inferior. For these and other reasons which have been urged, it does not appear to us expedient a grant should be refused on the ground that the invention in respect of which it is made appears open to serious objections on the ground of want of novelty or utility. The result, however, of such preliminary examination should be available to the purpose of explaining to inventors how far and in what way their inventions are affected by previous discoveries, believing that in most cases applications would be withdrawn when the applicant had good grounds for concluding that a Patent, if granted, would be invalid, the report should be placed on record, and open to the public, and the applicant permitted to proceed at his peril. Few inventors would pursue the application in the face of such a report; their object generally is to secure profit from their inventions by reason of the exclusive privileges conferred by the law for a limited time, for the trouble, anxiety, and expense of perfecting and bringing out the invention; but if an inventor, thus advised and warned, thinks fit to prosecute his application, the State will have done its part in preventing the reckless multiplication of grants which there would be slight probability of being sustained, and which would, in all probability, if granted, prove of no benefit, but a positive injury, to the inventors.

It has been urged that inventors, as a class, are indisposed to listen to such suggestions, that they must be left to themselves and to the effect of improved education and extended knowledge. This may be true, as applied to a very small class of wild or ignorant schemers, but it is not true as regards the very large class of inventors who sit down deliberately to supply and provide for an existing want and deficiency. Such persons will be advised by the result of competent investigation, from which a vast dimi-

nution in the number of Patents granted may be confidently anticipated. Experience of what did in fact take place under the Protection of Inventors Act, as stated by Mr. Webster, in the Introduction to his "New Patent Law," confirms this opinion. Mr. W. says, "In the administration of that Act frequent opportunities were afforded of suggesting to applicants for provisional protection that the supposed invention possessed no feature, either of novelty or of utility, and was not worth further prosecution. In no less than 77 cases out of 601 applications such suggestions were acquiesced in, thus affording conclusive evidence of the importance of and of the benefit to be conferred by protecting inventors against their own ignorance. The majority of the persons acquiescing in such suggestions were not of the poorest class; they were persons who had taken up some scheme foreign to their education or business, and who could have found money for a Patent which would have been either invalid or utterly worthless, but which, when once obtained, they might in many cases have been tempted to maintain, even by litigation." No good reason has been suggested why, if the course now recommended should be pursued, beneficial results similar to those arising upon this special occasion should not be generally obtained. Thus the evil would be met, not by an arbitrary refusal on the part of the Crown to make the grant, but by the voluntary withdrawal by the inventor of his application for it; a remedy much more satisfactory to the inventor, at the same time that it would be more consistent with the principles of the Patent Law.

Such a preliminary examination as that now recommended was contemplated by the promoters of the Act of 1852, of the Bills of the session of 1851, as passed by the House of Lords, and sent down to and amended by the House of Commons, and the Bill of the session of 1852, as passed by the House of Lords, and sent down to the House of Commons, contained clauses for ensuring and requiring such examination and report in all cases.

This clause, however, was afterwards altered, and instead of such examination taking place in all cases in aid of the judgment of the law officer, it was left in the discretion of the law officer to call to his aid such scientific or other persons as he might think fit, and to cause to be paid by the applicant such remuneration as the law officer should appoint.* The result has been that the granting of Patents is practically unrestricted and without investigation. Now, if such a preliminary examination be desirable, it does seem most objectionable to leave to the option of the law officer whether or not it is to take place. Such examination ought to be had in *all cases*, and not to be confined to those where there appears to be some special difficulty.

The investigation which does take place is practically confined to the few cases of rival claimants, applying for a Patent for inventions supposed to interfere with each other, or to the still fewer cases in which there may be reason to suppose that application is made for an invention surreptitiously obtained, and in fraud of another, the real inventor.

The number of cases in which any inquiry or investigation takes place, and the character of such inquiry and investigation, are further restricted by the fact of the provisional specification being a secret document until six months after the date of the application, that is, until the final or complete specification is filed, and also by the law officers declining in ordinary cases to enter on any question of the validity of the Patent when granted, as, for instance, want of novelty.

It may be expedient and necessary, in reference to obtaining foreign Patents, that the invention should be kept secret, or, in other words, that the provisional specification should not be open to inspection for a limited term after the application for the Patent, but the whole machinery of the statute (sect. 12 and 13), requiring advertisements and particulars of objections to the granting of the Patent to be sent in and referred to the law officer, is wholly inconsistent with the supposition that inspection was not to be had of the provisional specification as the authentic and only source of information as to the nature of the invention for which a Patent is sought.

How can such particulars be fairly and properly prepared by a person having no information as to the invention for which he is about to oppose the application for a Patent, and the result is that opposition for any useful purpose, as a check on the number of Patents, does not exist.

It has been proposed, that on notice being given of the intention to proceed with the Patent, the provisional specification should be open to inspection; the effects of this

would be to render it a closed document for four or five months from the date of the application. This would be ample time for any legitimate purpose, especially when it is remembered that *two months* was the time originally allowed for enrolling the specification after the date of a Patent under the old system for one only of the three countries. It should also be borne in mind that, under the new system, the applicant obtains provisional protection and property in his invention for six months on his own *ex parte* statement; the protection and inchoate rights thus obtained is one of the most admirable features of the new system.

Your valued member, Lord Stanley, in reference to this subject,* writes as follows:—"A third grievance, connected in some measure with the second, is the want of publicity given to provisional specifications, whereby the right to oppose applications for Patents, though freely granted by the Act, becomes in practice inoperative." The actual mode of procedure is as follows:—The demand for provisional protection is placed before the law officers. On their certifying that the invention is therein intelligibly and clearly described, provisional protection is granted. The description, the document, on inspection of which the privilege in question has been conceded, remains secret. Within five months from the granting of such protection, the party possessing it must give notice of his intention to proceed with or abandon the Patent. On such notice being given the claim is advertised, and all parties interested in opposing it are invited so to do; but the invitation is couched in terms so vague as to leave the opposing party entirely in the dark, ignorant whether his interests really are or are not affected by the Patent claimed, for the title only of the invention proposed to be patented is made known, and this descriptive title may be of the most vague and general kind; the specification, by which alone its real nature can be understood, is not submitted to inspection. This state of things certainly was not contemplated by the Act of August 1852, which runs thus:—

"The Commissioners shall cause true copies of all provisional specifications left at the office of the Commissioners to be open to the inspection of the public, at such times, after the date of the record thereof respectively, as the Commissioners shall by their order from time to time direct."

It may be contended that this clause is permissive only, not compulsory. Doubtless; but a legislative permission implies at least an expectation that it will be used; and it would be hard to construe the words "at such times as the Commissioners shall direct" as meaning "at no time whatever."

The necessity of publicity can, I think, scarcely be disputed by any reflecting person. To create a monopoly is an exceptional process, justified, as I have said before, only by the novelty and utility of the invention patented; these claims of novelty and utility cannot be sufficiently tested without allowing parties who deny them to be heard in opposition; such opposition is contemplated, sanctioned, encouraged by the Act. Can any one imagine that the Legislature intended to make its own provisions nugatory by conceding a right, yet denying the only means by which that right can be rendered available? The theory is absurd. But why, it will be asked, was so large a discretion left in the Commissioners' hands? For this reason, that a certain interval of secrecy after the granting of provisional protection is desirable, in order to give time for experiments, and also to prevent the invention being fraudulently patented abroad by other parties. It is neither necessary nor expedient that the specification should be thrown open immediately on provisional protection being granted. The fairest rule would be to make it public as soon as the inventor gives notice of intention to proceed—i.e., before, but only just before, the opposing parties are heard.

The Committee would conclude this portion of their report by the recommendation that the provisional specification should be open to inspection on the applicant giving the notice, at the final stage, of his intention to apply for the warrant of the law officer for the sealing of the Patent, or, to adopt the language of Lord Stanley, "That ampler opportunities should be given for opposition by making public the specifications for inventions proposed to be patented in time for opponents to have cognizance of them." For this change no legislative interference is required; it lies within the scope of the powers of the Commissioners of Patents.

Provisional Specification.

The provisional specification introduced by "The Patent Law Amendment Act, 1852," (sect. 6), is a statement in writing describing "the nature of the invention." It is an expansion of the brief description of the invention con-

* See the Patent Law Amendment Act, 1852 (15 & 16 Vict. c. 83. s. 8). The clauses in the Bills of 1851 and in the Bill of 1852, as sent from the Lords to the Commons, made this imperative. See also speech of the present Lord Chief Justice (Sir A. Cockburn), when Attorney-General, on moving the second reading of the Bill in the House of Commons, 25th July, 1851—118 Hansard, 1854.

* See a memorandum on suggested improvements in the Patent Laws, A.D. 1850.

tained in the title, and was intended to check practices, not uncommon, of an open Patent, or a Patent under a "blind" title, as it was technically termed, for one, and specifying another, or most materially altered invention. This provisional specification is left with the petition and declaration, and becomes the record upon which the Patent is granted; the law officer upon being satisfied that it describes the nature of the invention is to allow the same, and grant a certificate of provisional protection. From this new system the greatest benefits have resulted to the honest inventor and the public; it affords an effectual check to the evil above referred to, and instances are of constant occurrence in which the honest inventor is rendered secure in rights, of which he would inevitably have been deprived under the old system, under which no rights were secured until the actual sealing of the Patent, an interval varying from three to six weeks, during which the Patent might be defeated by publication of the invention.

No objection or improvement has been suggested in this part of the new system, except more consistency in practice as to the form and amendment of or alteration in these documents, so as to introduce more consistency of practice by successive law officers, a result which would follow on the system of examination above suggested.

The want of consistency of practice above referred to in reference to the provisional specifications is most strikingly apparent in the allowance and disallowance of disclaimers and memoranda of alteration, as to which great discrepancy, not to say inconsistency, exists. The views of different law officers as to what ought to be allowed under the statute (5 & 6 Will. IV., cap. 83.), commonly called Lord Brougham's Act, are so various and conflicting as to be matter of serious speculation and consideration, a practice which for obvious reasons ought to be checked and discouraged by every possible means. The Patent Law Reformers of 1851 did not attempt to deal with this difficulty, their object being directed to reform in the system of granting Patents rather than to the modification or protection of rights when granted.

The main difficulty in this case is the attaining to a due and proper appreciation of the effect of a proposed alteration, which, though apparently of little consequence, may with the foresight of those who propose it, most materially affect the rights of other inventors and of the public.

Two remedies suggest themselves; the one that each such proposed disclaimer or alteration should be the subject of a special report from competent examiners, as one or more of the persons intrusted with the preliminary investigation which has been recommended; the other that the decision of the law officer should be the subject of appeal to one of the courts of common law, especially in cases in which the disclaimer or memorandum of alteration may have been resorted to to obviate the consequences or result of litigation. For this purpose recourse must be had to fresh legislation.

This may be regarded as part of or intimately connected with the more comprehensive question of amendment in legal proceedings for the protection of intellectual labour, brought before the Association at its meeting last year.*

Upon this important subject a wide difference of opinion exists, most, however, concur in the opinion of the necessity of a substantial change in the trial of Patent causes.

The views of some are directed to a modification in the nature and proceedings of the tribunals before which actions for infringement are tried, a modification of which will, in their opinion, be more beneficial to the public than a total change of the present system, as advocated by others. It cannot be doubted that at present great injustice is done, by the inability of juries to grapple with the intricate questions raised in actions for infringement; nor can it be a matter of surprise, that they are unable to understand the nice distinctions made between different processes or machines, an accurate appreciation of which is essential to a just verdict. Taken indiscriminately, without the slightest reference to manufacturing knowledge or scientific acquirements, embarrassed by the contradictory evidence given by scientific witnesses, and still more puzzled by the speeches of contending advocates, it is impossible that they can form a right judgment upon the point at issue. Were it not that juries are under the direction of a learned judge their verdicts, in questions of Patent law, might as well be taken by ballot. Such a tribunal then is evidently unequal to the trial of questions of this nature. It has been proposed that actions of infringement should be tried by the judge alone; to this proposition, however, there are many objections upon which it is unnecessary to dwell.

A tribunal composed exclusively of scientific men would be equally objectionable, from the little experience men of this class have in dealing with evidence, and the tendency

they have to take up strong views in support of their own theories, a fact abundantly proved by the feelings of partizanship exhibited by them when testifying as witnesses on scientific questions in a court of law.

A combination of legal and scientific qualifications would appear to present the best and most effective mode of dealing with these questions, as a system somewhat analogous to the practice in the Admiralty Court, where the Elder Brethren of the Trinity House are called in to assist the judge. The appointment of a limited number of persons of experience in the subject as the jury, or to assist the judge in the Common Law Courts, upon the questions arising in actions for infringement of Patent rights, would, in the opinion of the Committee, be a vast improvement on the present system; such assessors, being men of science, and conversant with inventions and manufactures generally, would at once appreciate the peculiarities of the respective processes or machinery, the similarities and dissimilarities, the successive steps which have led to the invention under consideration. Their experience in scientific and manufacturing information would be a check on the too great zeal and partizanship which is apt to be exhibited on the matter in dispute. Such assessors might be selected by the parties, in case they could agree on the whole number, or by the judge, from a list approved by the Commissioners, of persons not otherwise engaged professionally in advising on inventions.

These assessors would virtually discharge the functions of the jury, they would find all such facts as might be necessary, under the direction of the learned judge; they would be a jury say of five persons, competent from their previous training to discharge, in respect of scientific matters, that which the jury summoned under the existing system is competent to discharge in respect of the ordinary questions submitted to them arising out of the ordinary transactions of life; they would enable parties to arrive in a much more satisfactory manner at that which is the practical end of the trial at law in nine-tenths of the Patent causes, a special case for the consideration of the Court, which may be the subject of appeal to the highest tribunal.

Licences.

Another question of importance, and which formed the subject of a communication to the Liverpool Meeting (1858) of the Association, and which also was the subject of evidence before the Select Committee of the House of Lords in 1851, is the adoption of a system of *compulsory* licences. One argument of those who object to the whole system of Patent grants for inventions is, that such a system tends to obstruct the progress of invention; they say, and truly, that the advance in any branch of manufacture generally takes place gradually, and step by step; each step being something gained upon that which preceded it, and that the case is exceptional where any great stride is made in invention; that most great improvements may be traced as consisting of a series of successive slight advances. This being so, and inasmuch as any one of these steps may be made the subject of a Patent, the consequence is, that other inventors who are perhaps following in the same line of improvements are debarred using it, and so prevented attaining the ultimate object of their inventive skill; an injury not confined to themselves, but extending to the community, whose interests are concerned in their success. It therefore becomes important to inquire whether the obstacle thus placed in the way of progress may not be removed, so as to give full play to the genius of others without depriving the first inventor of the rewards to which he is justly entitled.

In most cases this object will be accomplished by arrangement between the parties, without interference on the part of the Legislature. By a small payment the inventor is recompensed and the path of improvement again opened. But cases may occur in which an inventor may be obstinate, and influenced either by motives of cupidity or ill-will may refuse the use of his invention, or his demands may be so unreasonable that it is impossible to comply with them.

It is in cases of this kind that we think the Legislature ought to interfere and to compel a licence at a certain rate of payment. It is not probable that many cases would occur in which there would be the necessity for resorting to such compulsory process; but instances of obstinate refusal have occurred, and might occur again, which unless provided for may be productive of very great hardship to individuals requiring a licence to enable them to proceed in a course of improvements, but unable to obtain it by other means. This suggestion appears effectually to meet the oft-repeated objection to Patent laws, of obstructiveness to improvement. Any alteration removing this ground of objection, without interfering with the stimulus afforded to inventors, could not be otherwise than beneficial in its results. The introduction of a compulsory system of licences appears well calculated to accomplish this object,

* See Transactions, 1859, p. 237-244.

because thereby the reward of invention would still be secured, and at the same time no impediment put in the way of the progress of others.

It has been urged that the inventor, if compelled to allow a participation in the benefits to be derived from his invention, has not that full power over the creation of his genius to which he is entitled, that he ought to have absolute control over the creations of his own intellect, over that which more than any property is peculiarly his own; but it must be borne in mind that the public have to be considered as well as the inventor; that the exclusion from the multiplication of copies of that which one of the public is lawfully possessed of is matter of municipal regulation; that if the rights of the many are to be restricted in favour of one *à fortiori*, when the public good equally demands it, the privileges thus conferred on the individual may be modified in behalf of the community. Besides, there is no reason why the State should bind itself to create such an absolute interest; if one more limited will equally secure the interests of the public that ought to suffice, and the inventor can hardly grumble so long as he is permitted and enabled to derive those benefits which it is the natural object of all inventors to secure. The rights with which such a compulsory licence would interfere are of a fanciful rather than of a real character, and no real loss would in fact accrue to an inventor by its adoption. A fair rate of payment can always be ascertained and levied; it is very possible that in some cases a larger sum may be assayed to an inventor than he would otherwise receive. For these reasons it seems not unreasonable that the Legislature should make it obligatory on every patentee to grant a licence, if required, the mode and rate of compensation to be fixed by persons appointed by the Crown, but there is no reason why this duty should not be performed by the persons appointed to discharge the duties of the preliminary examinations, or by the Special Commissioners which the Crown, under the first section of the Patent Law Amendment Act (1852), is empowered to appoint.

Your Committee, in connexion with this subject, would advert to a suggestion as to the expediency of money compensation to inventors, and purchase for the public of inventions prior to the expiration of the term of the Patent.

The "Inventors' Fund" (as the surplus of the fees levied in the form of stamp duties on the granting of Patents over and above the legitimate expenses of the system has been termed) is adequate, and would be most appropriately applied to this as well as other purposes beneficial to inventors.

On application for an extension of the term of Letters Patent under Lord Brougham's Act, the Judicial Committee of the Privy Council are in a position to estimate what would be a proper compensation, in lieu of an extension of the term; the financial position of the Patent, namely, its past and probable future earnings, the charges to which the inventor and invention have been subject, are before their Lordships, who, according to principles of ordinary calculation, put a money value on the expectancy of the extended Patent. It would frequently be beneficial to the applicant and to the public that such expectancy should be compensated for at once, and the invention become the property of the public.

The attention of your Committee has been also directed to the necessity of some amendment in the proceedings of actions at law, with the view of the plaintiff and defendant respectively having more precise information as to the real nature of the matter in dispute; as for instance that the defendant should be informed in what the alleged infringement consists, and that he should be informed as to the nature of the attack to be made on his Patent, and also as to the importance of a consolidation of the numerous statutes or parts of statutes relating to Patents for inventions.

Your Committee conceive that these objects will be provided for in any future legislation, which in conclusion they would recommend to be directed to the following objects:—

1. Some check by a previous enactment and report on the present uncontrolled granting of Patents for inventions.
2. In trial of Patent causes by a judge and jury of assessors, instead of by a judge and jury selected as at present.
3. A system of compulsory licences and money compensation by way of purchase for Patent rights.
4. Consolidation and amendment of the several statutes relating to Patents for inventions.

REPORT on the PATENT LAWS.—Presented by JAMES HEYWOOD, M.A., F.R.S., to the Meeting of the BRITISH ASSOCIATION at Manchester, A.D. 1861.

The founders of the British Association, at the conference at York in 1831, pointed out the revision of the

Patent laws as one of the objects specially deserving the attention of a scientific association; and committees have from time to time been appointed and reported in furtherance of that object. During the last 30 years, and especially since the new Patent Law (which came into operation on the 1st of October 1852) many of the grievances complained of, namely, the first cost of Patents; the separate Patents for England, Scotland, and Ireland; the delay and consequent risk in passing through the several offices of the three countries; the absence of all protection until the Patent was obtained; the inaccessibility of the specifications of existing Patents—have been removed, but others still exist which have been the subject of the reports of the committees and of discussions at the meetings of the Association.

At the Liverpool meeting of the Association (September 1854) attention was specially directed to the appropriation of the monies, amounting to upwards of 70,000*l.* a year, raised from inventors obtaining or applying for Letters Patent, and a committee was appointed "for the purpose" of taking such steps as may be necessary to render the "Patent system and the funds derived from inventors" more efficient and available for the reward of meritorious "inventors and the advancement of practical science."

The report of that Committee and the reports of Committees appointed at subsequent meetings of the Association at Glasgow, Cheltenham, Leeds, and Aberdeen, concur in recommending that the surplus derived from the fees on Patents, and which has been termed the Inventors' Fee Fund, should be applied at present to—

1. The erection of suitable offices for the Commissioners of Patents, and a free library of reference and consultation.
2. The erection of a museum for the preservation and exhibition of models of inventions, in preference to a reduction of the fees on Patents.

In the discussion which took place at Aberdeen, the inadequacy of the laws for protecting property in inventions, the temptation and encouragement consequently afforded to piracy and speculation, the necessity of more stringent proceedings for the suppression, checking, and control of such practices was strongly insisted on by inventors and others conversant with the Patent system, and the Section, on the suggestion of the Right Hon. Joseph Napier, unanimously recommended the subject to the Jurisprudence Committee of the National Association of Social Science at its meeting during the ensuing month at Bradford, which resulted in the appointment of a joint Committee of the two Associations, which resulted in the following resolutions:—

BRITISH ASSOCIATION for the ADVANCEMENT of SCIENCE.—RESOLUTIONS of the PATENT LAWS COMMITTEE, agreed upon in London, 1861.

- I. That all applications for grants of Letters Patent should be subjected to a preliminary investigation before a special tribunal.
- II. That such tribunal shall have power to decide on the granting of Patents, but it shall be open to inventors to renew their applications notwithstanding previous refusal.
- III. That the said tribunal should be formed by a permanent and salaried judge, assisted when necessary by the advice of scientific assessors, and that its sittings should be public.
- IV. That the same tribunal should have exclusive jurisdiction to try Patent causes, subject to a right of appeal.
- V. That the jurisdiction of such tribunal should be extended to the trial of all questions of copyright and registration of design.
- VI. That the scientific assessors for the trial of Patent causes should be five in number (to be chosen from a panel of thirty to be nominated by the Commissioners of Patents), for the adjudication of facts, when deemed necessary by the judge or demanded by either of the parties.
- VII. That the right of appeal should be to a Court of the Exchequer Chamber, with a final appeal to the House of Lords.

VIII. That for the preliminary examination the assessors (if the judge requires their assistance) should be two in number, named by the Commissioners of Patents from the existing panel; the decision to rest with the judge.

IX. That the Committee approve of the principle of compelling patentees to grant licences on terms to be fixed by arbitration, or in case the parties shall not agree to such arbitration, then by the proposed tribunal, or by an arbitrator or arbitrators appointed by the said tribunal.

X. That a report be drawn up in conformity with the resolutions passed by this Committee, and that the Council, if such report be approved by them, be requested to allow it to be read at the meeting of the British Association to be held at Manchester this year.

APPENDIX No. II.

QUESTIONS submitted by the COMMISSIONERS, with the ANSWERS received thereto.

QUESTIONS.

1. Should the cost of obtaining Letters Patent be diminished or increased; if either, to what extent; and should the payment be made in one sum, or by annual or other instalments?
2. Does the present mode of obtaining Patents appear to you satisfactory? Is it your opinion that there ought to be a preliminary investigation of a more searching character than that which at present takes place? If so, how should the tribunal be constituted before which such investigation shall be conducted, and should the judgment of such tribunal be final?
3. Should the investigation be *ex-parte* or public and subject to opposition? Should the present practice as to caveats be adhered to?
4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents.
5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?
6. Should greater facilities be provided for the repeal of invalid Patents?
7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by Patentees?
8. Should the granting of licences in your opinion be made compulsory, and can you suggest any practicable method by which this should be done?
9. Do you think it expedient that Patents should be granted to importers of foreign inventions?
10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?
11. Is it expedient to make any, and if so, what alterations in the law relating to prolongations and confirmations?
12. Is it expedient to make any, and if so, what alteration in the law respecting disclaimers and memoranda of alterations?

ANSWERS.

ANSWERS of the Right Hon. SIR JOHN ROMILLY, M.R.

1. I think that it is not desirable to diminish or increase the costs of obtaining Letters Patent, and I also think that the present system of payment should be continued.

2 and 3. I am unable to suggest any more satisfactory mode of obtaining Patents than that at present subsisting. I entertain no doubt that a preliminary investigation of a more searching character than that which at present takes place would be simply injurious. Such a tribunal, however constituted, must either act *ex parte* or subject to opposition.

If the preliminary investigation were *ex parte*, I believe that the investigators, however constituted, would always allow the Patent, and that it would become a mere form, creating delay and expense to the person requiring the Patent. If they did not, there must be some appeal from their decision to a higher tribunal; however this tribunal might be constituted, and however this appeal might be regulated, it would be very unsatisfactory. It must necessarily place the investigators (or judges in the first instance) in the situation of defendants. The ultimate decision, if in favour of the appellant, could bind no one afterwards contesting the validity of the Patent; neither do I see in what manner the costs of the inventor, and the loss sustained by him by the delay, could be satisfactorily provided for. If the tribunal were to act publicly and subject to opposition, it would either be inoperative, or it would create great expense, and be like an ordinary trial at law in the case of a contested Patent, without the same securities for a correct decision, unless such previous investigation were confined to the cases where some person had entered a caveat, in which case if a new tribunal were constituted to try Patents, as suggested in my answer to Query 7, I think it might be advisable to leave to such tribunal the determination of whether the Patent should or not be granted. If not,

I think the present practice as to caveats should be adhered to.

4. I believe that great public inconvenience is caused by the multiplicity of Patents, and that many Patents are taken out, which, if contested, would be found to be wholly invalid, and which yet are made the instruments of levying a tax in the shape of payment for a licence, and that many persons now prefer paying a small sum of money for a licence to incurring the expense and anxiety of legal proceedings to contest the validity of the Patent.

5. I consider it to be next to impossible in most cases to determine beforehand; and, until the invention has been put into practical operation, whether an invention for which a Patent is claimed is of a trifling or frivolous nature. I believe that the best and most experienced persons might frequently be mistaken, and form an erroneous judgment as to the value of an invention. The answer to this question also involves the difficulties which appear to me to arise on Questions 2 and 3.

6 and 7. I think that greater facilities should be provided for the repeal of invalid Patents. I think the trial of the validity of Patents by *scire facias* and a jury is very unsatisfactory, and should be discontinued. I think that the best mode of constituting a tribunal for this purpose would be by a trial before a single judge, to be assisted by an assessor, versed in the peculiar subject to which the alleged invention relates, taking the evidence *vis à voce*; but I think that is not necessary or desirable to constitute a new Court for this purpose; the business would not be very onerous, and might well be discharged by any one of the existing judges, either of law or equity. It would not, I believe, occupy above 20 days in a year on an average.

8. I think the granting of licences ought not to be made compulsory, and, if it were, I do not think

that it would be possible to suggest any practicable method by which this could be accomplished without injustice to the patentee.

9 and 10. I think it highly expedient that Patents should be granted to importers of foreign inventions, and also to foreigners residing abroad, or to their nominees. Some of the most valuable inventions, and which have been productive of great wealth to this country, have been made by foreigners; and several of them, I believe, would never have been made, or at least not completed, but for the expectation of the inventor that he would derive great profits from a Patent to be obtained in this country.

ANSWERS of the Right Hon. LORD CHELMSFORD.

1. I have scarcely sufficient practical knowledge to enable me to answer this question. I know that the reduction of the price of a Patent, and especially the easy terms of paying by instalments under the Act of 1852, was regarded as a great boon to inventors. Whether the amount fixed upon, and the mode of payment, hit the exact points of not discouraging inventors, and at the same time of not tempting speculative men to venture at a small risk upon (what I may call) experimental Patents of doubtful novelty, which are likely to occasion litigation and expense to prior patentees I am unable to say.

2. I do not think the present mode of obtaining Patents is entirely satisfactory. I cannot suggest any mode by which the preliminary investigation can be better conducted than by the law officer, but I think it ought to be rendered more searching. With respect to the first hearing before the law officer, he is merely to satisfy himself that the Provisional Specification or Complete Specification (as the case may be), describes the nature of the invention. This is quite right, and the opportunity for a fuller investigation is not necessary until a later stage of the proceeding. But when the petition, declaration, and Specification are recorded in the office of the Commissioners, it ought to be made the duty of some officer there to search the register of existing Patents, to ascertain that no similar invention has been previously patented. If any previous Patent is found resembling the one in question, it ought to be brought to the notice of the law officer at the time when the application for Letters Patent is heard. Under the present system, the law officer has no means of forming an opinion as to the novelty of any assumed invention, except where there happens to be an opposition by parties who can supply him with the requisite information. This is frequently wanting, either because the title of the Patent applied for does not of itself suggest any interference with their own invention (whether patented or otherwise), or because they do not think it worth while to incur the trouble and expense of an opposition; and the result of this is occasionally a considerable amount of future litigation. I would confine the search in the office, and consequently the limits of the objection, on the score of want of novelty to existing Patents. It is they which appear to me to require the protection of the preliminary investigation. As to expired Patents, there seems to me to be no necessity to extend the inquiry to them. The applicant may be left to the consequences of having either wilfully or incautiously obtained a Patent for an anticipated invention.

3. It seems to me that great danger would arise to inventors if the examination were not conducted (as it is now) *ex parte* and in private. But persons who are interested in opposing the claim for a Patent ought to be heard. It is most desirable to prevent improper Patents being issued, and every facility, therefore, ought to be given to insure a full investigation. There appears to me to be no reason why, in addition to the advertisements, persons who are desirous of protecting themselves by the receipt of a particular notice should not be allowed to secure this by entering a caveat, as at present. This would seem to be especially necessary for persons who have not

11. It is not, I think, expedient to make any alteration in the law relating to the prolongation or confirmation of Patents. If, however, such a tribunal as I have suggested in answer to Query 7 were constituted, it would, I think, be desirable to vest the whole jurisdiction relating to Patents in that tribunal. If not, I think, it had better be left to the Judicial Committee of the Privy Council, as at present.

12. It is not, in my opinion, expedient to make any alteration in the law respecting Disclaimer and Memorandums of Alterations.

JOHN ROMILLY.

9th December 1862.

brought their inventions to the degree of maturity which would enable them to be patented, but which are sufficiently advanced to have embodied the same idea, which is proposed to be carried out by the applicant for a Patent. A search in the register may protect a prior Patentee from invasion, but nothing but his own personal communication of his invention can prevent an unpatented inventor being forestalled.

4. I have no ground for forming an opinion either way, as to the public inconvenience or otherwise occasioned by the multiplicity of Patents. No doubt, where inventions run close to each other, which must be the case as the field of invention is more and more occupied, litigation is likely to arise. But it is difficult to see how the multiplication of Patents is, with justice, to be prevented. One invention naturally begets another, and sometimes the improvement upon a prior invention is so minute and apparently trifling as to be obvious only to a scientific eye, and yet it may be productive of the most importantly beneficial results. I have no doubt that numerous Patents of machines for particular manufactures have occasioned great embarrassment in the trade to which they were applicable, but no public inconvenience has resulted from them.

5. I think it would be better not to require this exercise of judgment from the law officers. It would be a discretion always delicate and sometimes difficult. No line can be drawn and no settled rule established between the trifling and the useful. Law officers may differ in their estimate of the value of inventions, and their decisions might, therefore, be regarded, in some instances as capricious, in all as uncertain. It is not advisable, in my opinion, to change the present system. An invention which is apparently trivial, but really useful, might be rejected, whilst a trifling invention of no utility will be neglected by the public, and the patentee will alone bear the consequences of his idle and frivolous experiment.

6. I am not sure that I understand the tendency of this question. If, by the words "greater facilities," it be meant that proceedings might be instituted on behalf of the public to repeal invalid Patents. I am entirely opposed to such a suggestion. Patents are now attacked only by persons to whom they are obnoxious and for the sake of their own interests, whether by actions for infringement, or proceedings by *scire facias*. And the public interest is sufficiently guarded by leaving the matter in their hands. If they could not only instigate the proceedings, but be saved from the expense of it, great encouragement would be given to litigation and patentees would be continually harassed by vexatious actions; but if it be meant to inquire as to the practicability of introducing some more summary method of getting rid of invalid Patents than at present exists, I am unable to see my way in this direction. If a Patent is assailed, whatever may be the form of proceeding, there must in justice be a full inquiry (as now) by witnesses, and the result must depend upon the facts, or the law arising upon the face of the Specification. Only in this latter case might the opinion of a court be taken upon the

construction of the Specification without going through the expensive formality of a trial, though frequently even in these cases the judges might require the assistance of scientific witnesses to explain technical terms.

7. All persons who have any experience upon the subject seem to be agreed that the present mode of trial is extremely unsatisfactory. If the invention in question is of some complicated machine, or of some new chemical operation, the chances are that not one of the jury will understand anything of the subject. The judge himself may possibly be not possessed of scientific knowledge. The counsel (with some few exceptions) have in most cases to learn their lesson for the occasion. And the witnesses generally know more of the subject than the judge, the jury, and the counsel. As the inquiry is one usually more of judgment and opinion than of fact, there is always the contradiction between the witnesses ranged on each side which is almost proverbial in questions of this description. If, then, the point to be determined is the resemblance between two machines, the difference between which cannot be observed by a common eye, or the distinction between two equivalent chemical combinations, the probability is that the last word will carry the day; and it has more than once happened that the same Patent tested by an action for infringement has been held good, and has been afterwards set aside when impeached by *scire facias*, the patentee beginning his case in the action and his opponent in the *scire facias*, and each respectively having the reply. This advantage of the first and last word in cases of this kind has been considered of such importance that the legislature in the Act of 1852 provided that for the benefit of the patentee at the trial of a *scire facias* to repeal Letters Patent the defendant should begin, and if evidence should be adduced on the part of the prosecutor, should be entitled to reply. It is easier, however, to object to the present mode of trial, than to suggest a different one. Of course the idea of a trial by experts immediately occurs to everyone. The difficulty is how a tribunal of this description is to be constituted. Every Patent case would not require a jury of experts, but I think such a trial might be ordered by the court upon the application of either of the parties. When such a trial is granted the parties might be required to deliver in a certain number of names on each side, and out of these one of the masters of the court might select either by choice or by lot five, which I think would be a sufficient number to try the cause. The trial must always take place before a judge, as questions constantly arise upon the construction of Specifications and upon other legal points which must be determined by the court and not by a jury.

8. I see no reason for making the quantity of licences compulsory. The law gives the patentee a monopoly in his Patent right. It is his property, and he ought not to be controlled in his dealing with his property as he pleases. If he chooses to work the Patent himself exclusively, it is only doing what the law permits him to do.

9. It does not occur to me that there is any objec-

tion to granting Patents to importers of foreign inventions, especially since the 15 & 16 Vict. c. 83. s. 25. I think it would be right, however, to require notice of the intention to apply for a Patent to be given to the foreign inventor a reasonable time before the application; and if the invention has been already patented abroad, I should require the foreign Patent, with its date and the term of its continuance, to be stated in the English Patent, otherwise to be void.

10. The only inconvenience likely to result from grants of Patents to foreigners residing abroad would be upon any proceedings for the repeal of the Patents. With respect to actions for infringement of other Patents by the use of the foreigner's Patent here, they of course might be brought against the persons engaged for him in the manufacture. There would be nothing unreasonable in requiring a foreign resident abroad to take out his Patent here in the name of a subject of this country. It is a very common practice now for foreigners to obtain their Patents in the names of patent agents.

11. If Patents are to be encouraged, you must give the patentees a chance of a prolongation of their term, in case they have not been sufficiently remunerated for the merit of their invention. These cases seem to be very carefully considered by the judicial committee, and I am not aware of any ground upon which a change would be expedient.

12. I have a very strong impression that the indulgence of allowing a Disclaimer to be entered, or alterations to be made in a Patent after it has been sealed, ought to be restrained. The facility with which a Specification may be corrected at any time during the term of the Patent, gives rise to great carelessness, and even to boldness, in introducing claims the novelty of which may be doubtful, or which may embrace a great deal more than the party has a right to include in his invention. Many patentees, I am persuaded, trust to the eventual Disclaimer as their protection in the event of the impeachment of their Patent, and enjoy the benefit of the Patent right conceded to them till its invalidity is discovered. The case of *Seed v. Higgins*, 8, House of Lords Cases, 550, furnishes a good illustration of my meaning. In that case the patentee claimed every description of centrifugal force applied to flyers used in machinery for slubbing or roving cotton. Eight years after his Patent had existed he entered a Disclaimer, which converted it into a Patent for a particular machine. Although compelled to uphold the Disclaimer, I thought it a great abuse of the indulgence of the Legislature. It would be hard, however, to deny to patentees the power to rectify their Specifications which may have been framed in error, but there would be no great hardship in limiting the power of disclaiming to a certain time (say a twelvemonth) after the granting of the Patent. Occasionally an honest patentee might suffer from this limitation, but it would render persons more careful in the preparation of their Specifications, and would tend to prevent the insertion in them of claims of doubtful novelty by way of experiment.

Eaton Square,

12th December 1862.

CHELMSFORD.

ANSWERS OF SIR ROUNDELL PALMER.

SIR, Lincoln's Inn, December 17, 1862.

I HAVE the honour to acknowledge the receipt of your circular letter of the 1st December instant, forwarding a copy of certain printed questions, on which the Commissioners for inquiring into the working of the Patent Law are desirous of receiving the opinion of persons acquainted with the subject; and, in reply thereto, I have the honour to submit the following observations, as my answers to those questions.

1. I think that quite sufficient facility is given for obtaining Letters Patent, by the present law; and, while I am not prepared to recommend that the cost should be increased, I do not think it

desirable, on public grounds, that it should be materially diminished. The principle of payment by instalments has been found to work very well; and I see no reason for suggesting any alteration on this point.

2. Subject to the suggestions which will be found in my answers to the remaining questions, I do not see any reason for thinking the present mode of obtaining Patents unsatisfactory. I leave others to form and express their opinions as to the value and operation of that part of the present system which depends upon the supervision of the Law Officers of the Crown. But I am unable to conceive, how any satisfactory kind of preliminary investigation,

professing to be of a much more searching character, could be usefully applied to the great majority of applications for Patents. Even if an Officer were appointed to check all applications as a general opponent on part of the public, it is manifest that the investigation would still be, in a high degree, inconclusive and unsatisfactory. Such an Officer could not possess that practical knowledge on the vast variety of subjects over which those applications range, which would be necessary to make his opposition really efficient; and many questions must always be left open, (especially upon the cardinal point of novelty,) which no vigilance can anticipate until the alleged invention has been made public, and the experience and opposing interests of practical men have been brought to bear upon it. Without some such Officer a mere *ex-parte* investigation of the novelty of an invention, in unopposed cases, would be absolutely worthless; while, in opposed cases, it would never be safe to rely on the sufficiency of the knowledge and means of knowledge possessed by the particular objector, or on his good faith and perseverance in his opposition when favourable terms of arrangement might be offered. Any attempt to establish a new machinery for such a preliminary investigation must necessarily be cumbersome and expensive, and must much increase the cost of obtaining patents to the inventors. It would be open to the further objection, that, if the Judges were non-scientific men they would bring to the inquiry no knowledge of their own which could be trustworthy and adequate upon the question of novelty; and could therefore do no more in substance than is now done, or might equally well be done, by the Law Officers of the Crown; while, if they were scientific men, their practical knowledge on many subjects must still be limited, and they could hardly be altogether free (or at all events they might not have the credit of being free) from all bias and partiality, whether of an interested or of a disinterested kind; and under these circumstances their decisions could not be expected to command the confidence of inventors generally or of the public. On the whole, I think that any such investigation (unless its results were made conclusive of the validity of the Patent, which I presume nobody would propose) would be likely to prove oppressive towards inventors; while, on the other hand, I do not think it would really ensure to the public much greater security against improper Patents than is obtained under the present system, or might be obtained by such amendments and modifications of that system as may be found advisable.

3. If any such investigation were made, it ought, I think, in order to answer its intended purpose, to be subject to opposition. But I do not think it could be made public, without great risk of doing injustice to inventors, by the premature disclosure of the history and details of their inventions, while yet unprotected (and, possibly, not yet perfected); and, if the investigation is not to be public, I am unable to suggest a better mode of procedure for the purpose of giving opportunity of opposition, than the present practice.

4. On this subject I have no practical knowledge. But, *à priori*, I can hardly doubt, that some public inconvenience must be caused by the multiplicity of Patents, and especially by that class of Patents, which are taken out for inventions, constituting mere steps in the progressive improvement, development, or adaptation, of some art, process, or machinery, which is already *publici juris*, or which is the subject of a prior invention. Many of these steps are really nothing more than simple and obvious corollaries or consequences from that which was previously known; and I can hardly doubt that the power which the present law thus gives to any person who first moves forward, upon a path virtually open to all, of blocking up and obstructing the road against his fellow workmen and fellow inquirers, must be an impediment to the fair use by the public of the common stock of knowledge. Frivolous Patents, also, (whether valid

or invalid in law,) are likely in many cases to be productive of some inconvenience; if valid, because they give a monopoly to those who are not really discoverers in any worthy sense of the term; if invalid, because they may deter from the exercise of their legal rights that large class of persons, artisans, small tradesmen, and others, whose circumstances do not enable them to face the risk and expense of litigation.

5. I have a strong opinion, that Patents ought to be refused, (though under the law, as at present understood, the Law Officers of the Crown would not be warranted in refusing them,) on the ground of the trifling and frivolous nature of the inventions, for which they are claimed. I think it would be very expedient, if a discretionary power were expressly given to the Law Officers of the Crown, (or, if any other kind of preliminary investigation should be substituted for that now in use, to those who may conduct such investigation), to reject applications, on this ground. But, if such a discretionary power were given, I think it would also be expedient to guard it, in favour of applicants, by allowing an appeal either to the Lord Chancellor, or, (which I should rather prefer,) to the Judicial Committee of the Privy Council, who now decide on all applications for the prolongations of Patents.

6. I am disposed to think, that there might be some advantage in substituting, for the present mode of proceeding by *scire facias*, a more summary mode of proceeding for the repeal of invalid patents, by petition to Her Majesty in Council, to be referred (as of course) to the Judicial Committee.

7. I do not see my way to any useful change in the tribunals competent to try actions and suits instituted by patentees.

8. If the granting of licences were made compulsory, it would, I conceive, be necessary also to prohibit the granting of any exclusive licence; and if this were thought expedient, a condition might be introduced into all Letters Patent, obliging the patentee to grant licences, "upon reasonable terms," to all persons applying for the same; and any non-compliance with such condition might be made a ground for repealing the Letters Patent; thus constituting the Judicial Committee of the Privy Council (or whatever else might be the Court) the judges of what would be "reasonable," or "unreasonable" terms. I see no other mode by which the grant of licences could be made compulsory. My own opinion, however, is not in favour of the principle of such compulsion. There are cases, in which the best (perhaps the only) mode of developing an important invention may be, by the employment of a considerable capital, either by the inventor himself, or by a partnership or company, to manufacture the patented article; and an exclusive licence, or the exclusive control over the Patent, may be, in such cases, an indispensable condition, without which the risk could not be safely undertaken. On the other hand, it seems to me well worthy of consideration, whether (consistently with this view) some greater security, than at present exists, may not be taken, against the undue suppression of a patented invention, during the continuance of the Patent; and the best which has occurred to me is, to enable Her Majesty in Council, (*i.e.* the Judicial Committee), upon the petition of any person, to recall or repeal any Letters Patent, as to which it shall appear, on the evidence which may be offered, that the invention has not been brought into use within a certain period (say five years) from their date; and that such non-user has been wholly, or in part, owing to the unreasonable refusal of licences on the part of the patentees, or of persons claiming, by exclusive licence, &c., under them, or otherwise to their wilful default.

9. I entertain a strong opinion, that it would be better, and more consistent with sound principle, if Patents were never granted to importers of foreign inventions, not being themselves the first inventors, or their nominees acting on their behalf.

10. It seems to me right and proper, that Patents

should be granted to foreigners residing abroad, (being themselves the first inventors), or to their nominees on their behalf, as well as to Englishmen, and persons residing in England. This, however, should in my opinion only be done in cases in which the same inventions are also protected by privileges in the nature of Patents in the inventor's own country; and the duration of the English Patent should in no such case exceed that of the foreign privilege.

11 & 12. It does not occur to me to suggest any

alterations in the law relating to prolongation and confirmations, or to disclaimers and memoranda of alterations.

I remain,

Sir,

Your obedient Servant,
ROUNDELL PALMER.

Edward Lloyd, Esq.,
Secretary to the Patent Commission,
&c. &c.

ANSWERS OF E. J. HUGHES, Patent Agent, Manchester.

1. The cost of obtaining Letters Patent ought to be decreased to such an extent as would meet the expenses of the Patent office, and that an annual tax of 5*l.* or 10*l.*, or a 50*l.* tax, at the expiration of five years, would be sufficient to clear the Patent lists of useless Patents.

2. A Court of Examiners should be appointed to report on every application as to *novelty only*, similar to the plan adopted in the United States of America; but if that plan should be adopted it would be absolutely necessary to dispense with Provisional Specifications, and deposit Complete Specifications on application for the Patent. I am also of opinion that whether examiners are appointed or not, it would be an advantage to dispense with Provisional Specifications, because in the first place every applicant is now obliged to risk patenting something that has been patented during the preceding six months; and secondly, the Provisional Specification is calculated to encourage litigation by raising the question of sufficiency or insufficiency of the Provisional, as is the case in every action tried for infringement.

If the practice of Provisional Specification be abandoned it would be necessary to allow Patents of Addition, at a small cost, as is the custom in France and other countries in Europe.

3. If examiners are appointed the investigation should be *ex parte*, with liberty for the applicant to appeal and the public to oppose; but in all cases of opposition both parties should deposit in court a sum of money sufficient to cover expenses, to be paid as awarded by the court. If opposition is allowed caveats must exist as at present.

4. I have no reason to suppose that the public suffer any inconvenience from the multiplicity of Patents.

5. I think it would be improper for any person to undertake the responsibility of saying what invention was trifling or frivolous. It would be tantamount to deciding on the utility of an invention, which no one can judge of so well as the inventor. In my experience I have known inventions which I considered very frivolous become very important and acceptable to the public.

6. If the expense of repealing a Patent could be reduced, it would be a boon to the public.

7. If a separate court could be established for the trial of Patent cases, it would be a great advantage; but in all cases juries should be selected who are likely to have some knowledge of the case they have to try.

8. Compulsory licenses might be allowed as far as using the invention, but not for making it; but I cannot understand how either case can be carried into practical effect, or how the royalty or compensation could be regulated compulsorily.

9. I think the present practice with regard to foreign inventions is just and reasonable. If Patents of importation were not allowed, the public would lose the advantage of many valuable inventions.

10. Foreigners residing abroad ought to be allowed to take their Patents either in their own names or their nominees', as is now the practice.

11. Instead of appealing to the Privy Council for prolongations, if a separate court were established, that court should have the power.

12. The present practice of obtaining disclaimers and memoranda of alteration is sufficiently satisfactory.

E. J. HUGHES, Patent Agent.

Manchester,
Dec. 19, 1862.

ANSWERS OF EVAN LEIGH, Engineer, Manchester.

1. I am of opinion that the cost of obtaining a Patent is sufficiently low, but instead of the 50*l.* tax at the end of three years, I would place at the end of five years; and the 100*l.* tax at the end of seven years should be abolished, I think, altogether. My reasons for this alteration are, that three years is too short a period to test an invention fairly, and that the 50*l.* tax at the end of five years, would sweep away all useless Patents.

2. The present mode of obtaining Patents is on the whole satisfactory. Although a many useless Patents may be granted, the evil in a great measure remedies itself from want of public patronage. The tax of 50*l.* at the end of five years would do the rest. Should a Board of Examiners, however, be instituted, I am of opinion that all applications coming before them should be fairly scrutinized and judged on their merits as to novelty, &c., without the name of the inventor being disclosed. In doubtful cases, the inventor should be summoned before tribunal, to explain or show cause why his application should not be rejected.

3. I think caveats might be abolished.

4. I do not think the public sustain any inconvenience whatever from the multiplicity of Patents, as they do not prevent people using what was known before, and no one is bound to use a patented article; therefore a man only does so when he finds it to his own advantage. Even frivolous and unsuccessful Patents that die away, throw each their quota of light

on sciences, which in the aggregate benefit the public, and keep us, as a nation, in advance of the rest of the world.

5. I think a Patent should only be refused when there is evident want of novelty, or palpable infringement of others.

6. When a Patent can be clearly shown to be invalid, I think every facility should be given for its repeal.

7. The want of a proper tribunal to try actions and suits in Patent causes is much felt. I would have such actions tried in our ordinary local Courts by a special jury, composed of men who thoroughly understand the subject. From their decision there should be a right of appeal to a Patent tribunal, sitting in London, whose decision should be final. This tribunal should be composed of 12 men, eminent for their mechanical knowledge, and acquainted with Patents, to act as jury. They should each have 1,000*l.* a year, and be selected from decayed or unsuccessful inventors. Two of their number should retire annually and finally, in rotation, and others be elected in their places by the votes of the jury themselves, who might each propose a candidate. All candidates to send in certificates, or other evidence of fitness, before the day of election. The judge, and other officials, to be also stipendiary. If Patents are to be placed within the reach of the poorer class of deserving inventors, which I consider a national benefit, the boon should by all means be accompanied

with a cheap, speedy, and certain method of determining infringements.

8. The granting of Licences cannot practically be made compulsory.

9. I think Patents should be granted to inventors only.

10. I think Patents may be granted to foreigners,

residing abroad, through an agency, but not to their agents.

11. No.

12. No.

EVAN LEIGH, Engineer.

Miles Platting,
Manchester.

ANSWERS OF PETER J. LINSEY, Patent Agent, Manchester.

In answer to the questions on the other side, I am of opinion that Patents should be granted to all applicants on demand, that is, six months' Provisional Protection should be given on deposit of a petition, declaration, and Provisional Specification. I am of opinion that all examinations by the Law Officers and the opposition stage should be abolished, and that the warrant and seal should be issued on the demand of the applicant made one month before the expiration of Provisional Protection.

The present examination by the Law Officers and the opposition stage is well-known to be entirely useless, as ninety-nine per cent. of the applications which go to the seal are never modified or affected by those formalities, and when an opposition does occur the Law Officers seldom stop the issue of the Patent, however good the case may be against the grant, as they are afraid they may injure the applicant without leaving him any remedy, if they refuse the Patent, while the opponent (they say) has his remedy by an action to repeal the Patent when granted.

In my opinion, the first cost of Patents should be reduced as much as possible, because applicants require professional assistance, and have to incur considerable expense in drawings, experiments, &c., and this is enough without an excessive amount of stamp duties. I would propose the sum of one pound as the stamp on the petition (except in the case herein-after mentioned), and the sum of five pounds for the stamp as at present on the final Specification; these sums would about cover the Patent office expenses for printing, &c. But I should retain the present third and seventh years' stamp duties as the best and simplest means of repealing (or "weeding out") Patents for worthless and unworked inventions.

I would not have any search or investigation prior to the grant of a Patent with the view of deciding whether or not the Patent should be granted, because it would be almost impossible to get through the business and give satisfactory decisions; and because the applicants for Patents would, as they do now, save all this trouble, as it is well known that a great number of applications never go to the seal, and of those which pass that stage a very large number fall at the third and seventh year, and thus the applicants and Patentees execute judgment upon the merits of their own inventions, and it is better that it should be so.

In my opinion a special tribunal should be formed for trying the validity of Patents, and if found invalid for repealing them, for trying actions for infringements of Patents, for granting or refusing disclaimers and memorandums of alterations of the Specifications of Patents, and for granting or refusing prolongations of the term of Patents. The rules of such tribunal to be arranged with the view of reducing the excessive cost of such proceedings as at present conducted. But though I am

against any preliminary investigation to decide whether a Patent shall be granted or not, I am in favour of the appointment of a number of examiners, whose duties shall be to make themselves acquainted with the Provisional Specification which accompany each application, and to make a search to see if any previous Patents have been granted on the same subject, and bearing upon the invention described in the Provisional Specification; then the Specifications of such Patents shall be pointed out to the applicant as early as possible, or within one month from the time of recording the petition, and the information so given by the examiners shall not be made public as against that application till the expiration of the term of provisional protection.

It is well known to all persons having experience in actions for infringement of Patents that the main question is generally one of novelty, and in many cases either the Patent is defeated or never goes to trial, owing to the want of novelty, as shown by the Specifications of previous Patents put in by the defence, of which the Patentee was previously ignorant. It is well known that many Patents are applied for in ignorance that Patents have already been granted for the same invention.

Now if a search was made by examiners as proposed, a far less number of Patents would go to the seal than at present, and those which did go would have the claims of the Specification more perfectly defined, and the public would be able to form an opinion as to the novelty of the inventions for which Letters Patent were obtained, by referring to the report of the examiners. If a board of examiners was appointed, as suggested, then I would let the stamp on the petition remain as at present, instead of one pound only as previously suggested, so that the applicant would pay for the cost of the search by the examiner.

The tenor of my answers to questions Nos. 4 to 8 will be inferred from what has already been stated; but in reference to No. 8, I should leave the question of granting licences as at present, but in case of obstructive Patents, I would give power to the special tribunal herein-before referred to (on a petition to that effect) to compel a patentee to show cause why he should not be compelled to grant licences, and if he did not succeed in showing a sufficient and satisfactory reason, then the court should have power to compel him to grant a licence on terms to be decided by the court.

I would suggest also, that it would be a great facility if the Patent office would arrange so that business in application for patents might be transacted through the Post-office, same as it is in the office for registering designs.

PETER J. LINSEY, Patent Agent.

24, Queen's Chambers,
Market Street, Manchester.

ANSWERS OF THE LEEDS CHAMBER OF COMMERCE.

1. This Chamber thinks that no material advantage would be gained by any change in the present system.

2. The Chamber thinks the present system on the whole satisfactory, but would propose that a legal and permanent officer should be appointed to perform the duties now intrusted to the Attorney General.

3. The Chamber has seen no satisfactory scheme for a public investigation, and thinks that there are many objections to it. It would recommend that the present system of caveats should be adhered to.

4. Some inconvenience arises from the multiplicity of Patents, but no practical remedy for this particular grievance suggests itself to this Chamber.

5. The Chamber does not think it possible to get a tribunal satisfactorily to decide whether inventions are of a frivolous nature or not.

6. Does not think it practicable, except so far as the general improvement of the law might effect it.

7. The present mode of trying Patent cases is very unsatisfactory. The Chamber would recommend that

the jury should be dispensed with, and the case left with the Judge, assisted by scientific assessors or experts appointed by the Court.

8. The Chamber thinks that the granting of licences should be made compulsory only in cases where the party applying for the licence can show that his business or trade is materially injured by his not having it, and especially where the Patentee cannot prove himself in a position to carry out his own Patent efficiently.

9. No.

ANSWERS by the CHAMBER OF COMMERCE, HUDDERSFIELD.

1. We consider that the cost of obtaining Letters Patent should be diminished to such a sum as will cover all expenses of the Patent Law establishment and administration, and that no burden beyond this ought to be imposed on inventors. The present mode of instalments needs no alteration, in our opinion, if the amounts be reduced as stated.

2, 3. We find no fault with the present mode of obtaining Patents. There are considerable difficulties connected with the establishment of a preliminary investigation, which, in the opinion of this Chamber, would outweigh any advantage to be derived from such investigation. This Chamber therefore does not approve the scheme of any preliminary investigation, public or private.

4. The inconvenience referred to appears to be felt not so much by the public as by subsequent Patentees. To assist such there should be the best possible system of indexes of Patents, disclaimers, prolongations, confirmations, and of legal decisions affecting Patents.

5. We consider that the risk and cost incurred by the inventor are the true check against frivolous Patents, and that nothing else should be imposed which might discourage invention or improvement.

6. Yes.

7. In our judgment it would be a public advantage if a special Court were established for the transaction of all contentious Patent business, with a salaried judge, similar to the Probate Court, and with an appeal to a higher Court. This would greatly facilitate and reduce the cost and delays at present

10. Yes.

11. The Chamber approves of the present system.

12. No other alteration is suggested but that the inventor should have power to disclaim his provisional specification and begin *de novo* at any time before the expiration of six months, the inventor, of course, losing priority, and such disclaimed specification not to be published.

On behalf of the Chamber of Commerce, Leeds,
DARNTON LUPTON, President.

incurred in Patent cases. The salaries and expenses of such Court should be provided for by fees on Patents.

8. We consider that after the third year of the Patent the granting of licences might, with public advantage, be made compulsory in cases where the Patentee does not work the Patent in a beneficial manner. The amount of licences' fees in such cases should be adjusted on terms equitable to the Patentees, and, if not agreed between the parties, might be settled by arbitration or by jury under the supervision of the Patent Court.

9. Only to the inventor or Patentee himself, and not to agents.

10. On terms of mutual advantage, we think that international arrangements for granting of Patents might be productive of good.

11, 12. These matters should be transferred from the tribunals which at present take cognizance of them to the special tribunal for Patent cases. No other change seems requisite.

The costs of the trials of Patent causes are a great grievance and burden. It would be well if, amongst other improvements, the double fees payable to counsel in Patent cases were abolished. With the facilities afforded by the establishment of a special tribunal there should be sufficient business to make the ordinary fees a remuneration sufficient for the special knowledge required to be cultivated by the advocates who practise in such Court.

THOS. P. CROSLAND, Vice-President.

ANSWERS from the CHAMBER OF COMMERCE, NOTTINGHAM.

1. There is no reason for altering the existing law as regards the costs of obtaining Patents.

2. The Council would not interfere with the present mode of obtaining Patents, and does not know of any satisfactory tribunal that could be appointed for preliminary investigation.

3. See 2, above.

4. Not public inconvenience but trade inconvenience.

5. No.

6. No.

7. It is very desirable that some change should be made.

8. The granting of Licences should be optional.

9. Yes.

10. No; unless the Invention is worked in this country.

11. No.

12. Every facility should be given for Disclaimers.

ABSTRACT OF ANSWERS from MEMBERS of the CHAMBER OF COMMERCE, BRADFORD.

By J. LISTER, Esq.

1, 2, 4, 5. The first payment, upon sealing the Patent, should be increased to 50*l.*, with a further payment of 50*l.* at the end of three years; thus the number of applications for frivolous Patents would be checked. On the other hand, the present system is virtually a tax upon good Patents for the support of those which are bad. This would probably not stand in the way of poor inventors. At any rate it would be the lesser of two evils. The evil of a multiplicity of Patents must be diminished, and that can only be done by the method above suggested or by a preliminary examination by a special commission. Any such latter plan is highly objectionable; it would result in great injustice to inventors; no commission could be relied on to estimate the utility of an invention. For instance, in the case of *Lister v. Leather*, the jury, directed by Lord Campbell, after a long and searching investigation, decided that the plaintiff's Patent was bad because his machine was exactly like Heilman's. Now Heilman's machine has been public

property for several years, and no one will buy it, while manufacturers will pay a royalty of 900*l.* for the use of Lister's; experience thus showing that the former invention is worthless, the latter very valuable, while the decision of the Court was that they were exactly alike.

7. The present mode is, no doubt, expensive, but on the whole substantial justice is done. I succeeded in three actions at law as plaintiff, and failed once as defendant, and believe that the result was correct in each case. A trial by a jury of experts is highly objectionable. Any advantage gained by their acquaintance with the subject is more than balanced by their prejudice and personal interests. On this account, in the second trial of *Lister v. Leather*, I had the *venue* removed to Chelmsford, as I felt that with a jury of persons acquainted with the wool-combing trade neither facts nor arguments would have produced any effect on preconceived opinions.

By JAMES HOLDEN, Esq.

1. The present cost and mode of payment cannot be much improved.

2. A preliminary investigation is desirable by a tribunal composed of independent, scientific, and legal judges, whose decision should be subject to appeal, by the patentee, to the tribunal referred to under No. 7.

3. The patentee should be heard, with or without counsel. An opposing party should pay all real costs, and heavy damages, if he fail to obtain refusal of the Patent.

4. The public and inventors suffer from a multiplicity of crude, impracticable, valueless, "soi-disant," inventions.

5. Yes; if *proved to be trifling and frivolous*; but it would be no easy matter to prove some so which might appear so at first sight. Sometimes a very trifling change or improvement is attended with most important results to a whole trade.

6. The tribunal referred to under No. 7. might usefully be applied to for a judgment in *scire facias*, subject to appeal, as in cases where a Patent is refused.

7. A special tribunal or tribunals in London should be constituted to try patent cases of infringement; and in "*scire facias*,"—patentees to be heard by or without counsel. Such tribunal should have power to grant injunctions and assess damages.

8. Every patentee should either work or sell his invention within three years of date of Patent, unless he have *several inventions* and give the trade the benefit of *his best*, and unless he show satisfactory cause of *delay* to tribunal No. 7, who may *extend* the time *indefinitely*, and if need be grant a prolongation, in order to work profitably.

9. No; to none but inventors.

10. Yes; decidedly, to either.

11. Facilities of obtaining prolongations and confirmations to meritorious inventions should be granted, so that the inventor, or those to whom he has ceded his rights, may be able to obtain sufficient remuneration from the public.

12. All reasonable facilities should be granted to alter or disclaim; and also I would suggest the propriety of allowing "*additions*" to be made to a Patent to perfect and complete it; but up to that time any one who can prove its impracticability may bring an action in *scire facias*.

N.B.—What is wanted *more than ALL THE ABOVE is*, 1st, a *full, clear, and plainly written law of Patents*, so that any man of ordinary ability and learning may understand it; and, 2ndly, an easy and expeditious judicature for judging Patent causes.

W. ECROYD and SONS.

1, 2, 3. I think it questionable whether the mischiefs and public inconveniences arising from the system of Patents do not far outweigh any advantages or rewards which they secure to *bonâ fide* inventors. They work mainly for the benefit of a special class skilled in the litigation connected with them.

4. I consider that great inconvenience is caused to the public by the multiplicity of Patents.

ANSWERS by M. HENRY, Esq.

Having been requested to reply to the questions of the Patent Law Commissioners, I beg respectfully to submit the following answers thereto:—

1. I think the present cost of obtaining Patents proper in amount, and distributed in convenient instalments. Payment by instalment is judicious, but annuities would be inconvenient; they would increase the risk of unintentional forfeiture of Patents by circumstances, such as absence, illness, or temporary embarrassment of patentee. The system of annuities adopted in France is considered unsatisfactory in that country.

5. It would be much better, in my opinion, that Patents should only be granted in the case of manifest and important inventions.

6, 7. Unless a jury skilled in the matter to which the Patent applies can try each cause great injustice may, and doubtless does, result.

Most of the Patents taken out during the past 10 years for inventions of a mechanical character, and which we have tried in our works, are perfectly worthless in our opinion, and we believe they have been obtained in many cases for the sake of the profit realizable on the number of patented articles *which could at once be disposed of simply for trial*; at least it is difficult to come to any other conclusion.

As an instance of the mode in which the present law is abused I can mention a case in which certain machine makers of Blackburn took out a Patent, dated 26th May 1862, for improvements in weaving looms and winding engines. Their Specification embraces an alteration which my firm had applied in looms made by us, sold and delivered in February and March of the same year; other machine makers have made a previous use of the same invention; yet these parties intimate an intention to claim a royalty in all the cases. In many instances they will, no doubt, succeed, from the unwillingness of the parties to spend their time and money in conducting a law-suit, or from ignorance of the facts.

G. H. LEATHER, Esq.

1. I think the law as at present satisfactory on this point.

2, 3, 4, 5. If a plan could be adopted for referring every Patent to a committee, say, of three persons, connected with the branch in which the Patent is sought, and a notice given to the public interested, of the nature of the invention, and a certain time allowed for any party aggrieved to give notice of opposition, and the *grounds*, then let both parties appear before the committee; this might prevent many useless Patents being taken out and much after litigation; the decision of the committee to be final. No opposition to be allowed excepting on the ground of a previous Patent, or that the party was at the time working or had published the invention openly, so as to make it public property.

6. Yes.

7. All trials for infringement of Patents should be tried in the county where the infringement takes place, and the jury should be constituted, one half of persons in the trade itself, and the other half of persons connected with that business; as, for example, in a combing Patent, six should be spinners, and the other six mechanics.

8. Yes.

9. No.

10. Yes; to the real inventor or his nominee.

11. No prolongations should be granted.

12. No Disclaimer should be granted to any Patent. When the patentee has brought an action against another party, or had an action brought against him, for infringement, and been beaten on the ground of infringement, that Patent should be considered and declared void.

Men of intelligence and experience may differ on questions of novelty, utility, interference, and substantiality of improvement. Such questions are sometimes ventilated for days in law courts before a result can be attained, and this after an invention has passed from provisional description to the maturity of detailed specification and practical application. All inventions do not consist of broad principles, nor can they be enunciated by sharply defined statements.

An inquiry into the importance and novelty of an improvement often demands the evidence of skilled witnesses and experts; these are sometimes sceptical or mistaken, nor could they be bound to requisite secrecy.

The existence of an investigating Commission in America has not prevented Patent litigation in that country, whereas in France, where there is no inquiry, Patent property is respected and sought after.

Eminent lawyers, and not scientific professional men, seem to be the fittest authorities to control the issuing of Patents. The latter, however conscientious, have not unfrequently scientific partialities, and professional proclivities; whereas a lawyer brings to the consideration of the subject a mind educated, mathematical, trained to reason, and probably unbiased on technical or industrial questions.

But though the applicant has access to filed Specifications, he has no means of comparing his invention with others during the provisional protection of the latter; this is a special disadvantage, for it often happens from the requirements of the time that numerous Patents are demanded for one subject about the same period. This might be remedied by subjecting Provisional Specifications to a comparison with those not yet specified, the Law Officer conducting the examination, as now in opposed cases. If the interference were palpable, the latter application might be stopped; but if it were open to question, both might be allowed to proceed, leaving the ultimate decision to open tribunals.

For the reasons adduced, I think that the decision of an investigating board, however constituted, should not be final.

3. A public investigation would expose an applicant to the risk of losing all foreign Patents for his invention.

4. There seems no reason for supposing that multiplicity of Patents is a practical inconvenience to the public; the occasional complaints of individuals must not be taken as the public voice. Multiplicity of Patents arise from fertility of human ingenuity. The discouragement of such ingenuity might check its development, and occasion more public mischief than a few useless Patents. In France and America, where Patents are more numerous than in this country, they are, I believe, rather popular than otherwise.

5. I think that presumed triviality of subject-matter offers no ground for the refusal of a Patent. It is impossible to determine a standard of triviality; on this point opinions may differ, what may appear trifling to some may be important in practical result.

I submit that Patents for frivolous subjects are not mischievous, they injure none, but benefit many, for they benefit the revenue, and especially the community of inventors, because their costs swell the fund that enriches their library and museum; they do not injure the patentee, or he would not seek them, nor the public, who are free to adopt or neglect them. On the other hand, they often afford an impetus to trade by bringing a new article into the market, and by furnishing work for unemployed hands; advantage that might not be attained were the inventor deprived of the encouragement of Patent right.

6. Were additional facilities afforded for repealing Patents, litigation might be most unpleasantly increased.

7. Yes. By establishing a Patent (and Copyright) Law Court, presided over by a Patent-law Judge, and attended by selected juries, whose minds would be habitually directed to the consideration of inventive and intellectual property, and the progress of the arts, and who should be chosen for suitable qualifications. This, by organizing the application of jurisprudence to the useful arts, would simplify and expedite the consideration of Patent cases, establish decisions on a regular basis, and place Patent rights on a surer footing. Lists of men competent as Patent jurymen might be readily furnished by such institutions as the Society of Arts.

8. The difficulty as to licences might be partly met by importing the provision of the French law, rendering Patents invalid if not used or worked within a certain time, but with this addition, viz., the granting of (*bonâ fide* not colourable) licences to be considered as a sufficient using or working of the Patent.

9. Believing a Patent to be a public advantage I think the fewer the restrictions to the qualifications of patentees the better. The primary object of a Patent is to encourage new manufacturers; the recompense of the inventor is subsidiary. The introduction of foreign inventions tends to enrich the arts with improvements to bring new articles into the market and open new channels of labour. Few men deserved better of their country than did Lombe, the importer of a manufacture by which thousands have earned their bread.

10. I think foreigners abroad should have the right of taking Patents here, since most foreign countries concede a corresponding right to Englishmen. But they should also have the right of appointing nominees; delay and inconvenience to the foreigner would arise were Patents of communication abolished, our law requiring the deposit of papers which the applicant must sign personally.

11. The law of confirmations and prolongations is, I think, in principle correct, but I submit that if a Patent-law Court were established these decisions might be transferred to it.

12. Sufficient facilities are not afforded for the entry of Disclaimers and Memoranda of Alteration. There is no advantage, public or personal, in putting the applicant to the cost of advertisements, save of one in the *London Gazette* (to be transferred to the *Commissioners Journal*). An applicant for a Patent is not required to advertise his intention otherwise.

Since the privilege of further suggestion is kindly accorded, I would add that,—

In any revision of the Patent law a provision should be introduced for allowing Disclaimers in, and Memoranda of Alteration of, the Provisional Specification and title during provisional protection. If an inventor, while availing himself of the advantage of his provisional protection to ascertain the novelty of his invention from printed records and the trade, should find a portion of such invention forestalled, there is no statutory remedy for the largeness of his Provisional Specification. The Law Officer on payment of proper fees should allow at his discretion the entry of Disclaimers and Memoranda of Alteration in Provisional Specifications and in the Titles during provisional protection (not extending the invention they describe). An important improvement would be a provision for entry of caveats against recording assignments, coupled with a provision for permissive registration of undertakings to assign, *before* the sealing of Patents. The present arrangements are insufficient to protect purchasers of patent property.

M. HENRY.

84, Fleet Street, London,
March 20, 1863.

ANSWERS and OBSERVATIONS of Mr. JOHN POTTER, C.E.

1. How far the cost of obtaining Letters Patent for inventions might with propriety be reduced, it is difficult to say, and can only be learnt by experience. The 100*l.* stamp at the end of the seventh year is, however,

an oppressive tax, and ought to be abolished. The time for the payment of the 50*l.* stamp should be extended from the third to the fifth year.

2. A preliminary investigation of a more searching

character than is at present practised would be advantageous, provided it were simply admonitory and for the information of the applicant. If it went further than this it is conceived that it would not be satisfactory.

3. The present practice of caveats is on the whole advantageous and proper. But the hearing, in case of opposition, it is conceived should (in justice to all parties) be private.

4. Have no reason to suppose that public inconvenience is caused by the multiplicity of Patents.

5. It is impossible to say at the outset what inventions are trifling and frivolous.

6. Greater facilities for repealing invalid Patents might be advantageous. A system somewhat similar to that suggested by the writer in the annexed remarks, for the purpose of compelling the amendment and explaining of defective specifications, might perhaps be found to answer.

7. On this point the writer refers to the remarks below.

8. It seems only fair that any of Her Majesty's subjects should have the privilege of using a patented invention on paying a fair royalty for the same. In cases where the Patentee's demands are alleged to be exorbitant, a committee or jury might be empowered to settle and determine the proper amount to be paid, as suggested in the annexed remarks.

The difficulties which have arisen in the administration of the present Patent Law are mainly owing to the want of a correct definition as to what constitutes an invention, or rather a patentable invention.

It has been laid down as a maxim that there cannot be a valid Patent for a principle. But the word principle is here to be restricted to mean either simply an idea, or the original principles or properties of matter. These last may be classified in the following manner.

1st, Mechanical; as hardness, softness, strength, elasticity, solidity, fluidity, &c., which may be more or less characteristic of the substance or matter spoken of.

2nd, Mathematical; as the properties of the lever, wedge, screw, &c., also circular, rectilinear, or reciprocating motion, &c. &c., which are dependent simply on the *form* of the substance or matter made use of, and not generally or necessarily on its other properties, provided it be strong enough for the purpose.

3rd, Chemical; embracing the affinities which different substances have for each other, including the effects of heat, &c. &c.

Now it is maintained that an invention consists in the combination of at least two (but generally a great many more) of the original principles or properties of matter, so as to produce a result beneficial to the public, and it is this combination of simple principles which constitutes the principle of the invention. It may be proper to remark here, that the combination of two or more of the natural principles or properties of matter so as to produce a result necessarily constitutes it a *manufacture*.

If this explanation be admitted as correct, it will follow of course that in the specification of a Patent the principle of the invention should be clearly defined. If it is not, the public will be left in the dark as to the extent of the monopoly created by the Letters Patent.

In some specifications no distinct claim is made defining the absolute or critical points on which the operation of the invention depends.

The question arises as to what meaning is to be attached to such a specification? It is maintained that in fairness it can only mean the machine or apparatus exactly as described, and that if by taking away a portion of the machine the same result were still obtained, such mutilated machine, or part of the original machine, would be no infringement of the Patent; because if it were, it would be clear that the public had not been warned as to the true nature of the invention, which they are entitled to be, and that consequently the Patent would be void from a want of compliance with the terms of the grant. It is further submitted that under a similar specification, if a portion of the original machine were left out and a new piece introduced in

place of it, the machine so altered would be no infringement of the Patent.

In a second class of specifications a claim is introduced claiming as new a certain machine or apparatus, as shown in the drawings, and described, without pointing out in what the novelty consists, that is, what new part, or new combination of parts, has been introduced in order to produce the result.

The objections made to the specification described in the last paragraph would apply with equal force to the present one. But there is another objection, which is, whether a machine constructed to produce the same results, but in which the original arrangement is left out, and a system of mechanical equivalents introduced instead, would be an infringement. It is maintained that it would *not*, unless a proviso had been introduced into the specification expressly for the purpose of claiming the substitution of mechanical equivalents simply as variations of the original invention.

On the subject of mechanical equivalents it may be observed, that an original machine calculated to answer a certain purpose is usually a very complicated affair. In process of time mechanical equivalents are introduced instead of some of the original motions. Such equivalents are chosen as will combine better together than the original motions, and a great simplification of the machine is the result.

The immediate effects of such a simplification are, first, less original cost of the machine; second, less wear and tear; third, less liability to derangement; and fourth, generally less mechanical force required to keep the machine in action. Such improvements are consequently proper subjects for Patents; but it is evident, nevertheless, that the original Patentee should be protected, but how this is to be done, unless some provision is made for the contingency in the original specification, it is sometimes difficult, if not impossible, to find out.

Other defects, such as ambiguity and want of clearness, frequently occur in specifications, and such defects are commonly accidental, but sometimes done purposely, in order to attain some particular end.

It will be agreed, it is presumed, that owing to the vast number of Patents which are at present obtained, and many of which clash with each other, that a stricter system with regard to specifications should be established, in order that each individual inventor may enjoy the protection to which he is justly entitled without encroaching upon what properly belongs to other inventors or the public at large. To attain this object it has occurred to the writer that the following process might be found beneficial, if not absolutely sufficient, for the purpose.

First, that any of Her Majesty's subjects who might consider that the specification of an existing Patent was not sufficiently definite or was ambiguous in its language, should have the power of lodging with one of the law officers a list of the objections he had to make to the specification in question, accompanied by interrogatories as he might think proper, and also by a copy of the specification. If the law officer should be of opinion that the objections were well grounded, then he should require the Patentee to state his reason (if he had any) why he should not be required to amend and make more definite the language of the specification. If, after the hearing, the law officer should be of opinion that the objections to the specification were valid, then he should issue a precept to the Patentee requiring him to amend the specification within a reasonable time. Second, if the Patentee should neglect to obey the precept, then the party considering himself aggrieved should have the power of applying to the Lord Chancellor. If, after having heard both parties, the Chancellor should be of opinion that the objections were valid, then he should issue his injunction to the Patentee requiring him to amend his specification within a reasonable time; and if the Patentee should neglect to comply with the injunction, then the Chancellor should have the power of suspending the privileges and monopoly granted by the Letters Patent until such time as the Patentee thought

proper to comply. The effect of this would be that the Patentee could not sue at law for any infringement of his Patent committed during the time of the suspension.

It is suggested that some such process as the above would have the effect of greatly reducing the amount of litigation which is constantly going forward in respect of Letters Patent, and which it is desirable should be reduced.

It must be observed that Patents are not unfrequently obtained simply for the purpose of securing to the Patentee the privilege of using his own invention; that is, by publishing the invention to prevent another person who might subsequently make the same invention from obtaining a valid Patent for it, and by that means interfere with the business or occupation of the original inventor. Others might not think it worth the while to support their Patents by appearing before the law officer as described. In these cases the suspension of the Patent privileges by the Chancellor would afford sufficient protection to the public.

By the Act 5 & 6 W. 4. c. 83., the Act 7 & 8 Vict. c. 69., and by the Patent Law Amendment Act, 1852, liberty is given to a Patentee to amend his specification under certain restrictions; but how seldom do we find Patentees availing themselves of the power thus conceded to them, except when some advantage peculiar to themselves is to be obtained? But why should they not be *compelled* to amend their specifications when the language employed is indefinite, has a want of clearness, or contains some ambiguity? Justice to the public at large, but more particularly to other inventors, seems to demand that a power of compelling amendment in such cases should exist in some quarter or other.

It has been suggested that a provision should be made for the purpose of fixing the amount of royalty to be charged for the use of a patented invention. Inventors have generally very extravagant ideas as to the value of their inventions, and hence fix the charge for royalty so high as not only to restrict the use of the invention, but also ultimately to injure themselves. A power to regulate the amount to be paid for royalty, to be vested in some committee or otherwise, would, it is

conceived, be of great advantage not only to the public at large, but also to inventors themselves, and have in other respects an indirect advantage in reducing the amount of litigation which is constantly going on in respect of patented inventions.

In my opinion the amount paid for stamps on Patents should, in justice to inventors, be reduced. The term of three years is, in many cases, too short to enable an inventor to make substantial progress with his invention. It is proposed that the term for the payment of the 50*l.* stamp should be enlarged from three to five years, and the payment of the 100*l.* stamp abolished altogether. It is submitted that by these means the advantages of the present system would be retained, and at the same time Patentees relieved from what really appears to be an unjust and unnecessary tax.

For the purpose of trying Patent cases, it is proposed that a number of individuals eminent for their scientific and practical knowledge, and residing in various parts of the kingdom, should be nominated as eligible, and their names placed on a kind of special jury list. From this list the law officer would select 12 to 20 names, which number should be further reduced by the objections of the plaintiff and defendant to four or six. These should form the jury, and with a judge or law officer appointed for the purpose, should constitute the court, which might adjourn from time to time until the case was thoroughly sifted. The judge or law officer to have a casting vote in cases where the jury were equally divided. No appeal from the decision of the court should be allowed, except in cases of alleged misdirection on the part of the judge or law officer. By this means it is presumed that speedier and more substantial justice would be rendered than under the present system.

The appointment of a vice-chancellor for the purpose of attending entirely to Patent cases would relieve, in some degree, the other Chancery Courts, and be beneficial to patentees by expediting the administration of justice.

JOHN POTTER,
Civil and Consulting Engineer.

4, Old Millgate, Manchester,
March 5, 1863.

ANSWERS AND OBSERVATIONS OF THE SUB-COMMITTEE OF THE HALIFAX CHAMBER OF COMMERCE, adopted and confirmed at a Meeting of the Council held February 28, 1863.

By EDWARD AKROYD, President.

1. The cost of obtaining Letters Patent should be adjusted to such an amount as will cover the expenses of the Patent Office and of the officials connected therewith, and of the special court herein-after suggested, and the cost should be paid by a fixed sum on the application for the Patent, a further fixed sum on the grant, and a fixed sum annually during the existence of the Patent.

2. Protection for six months ought to be granted to all applicants as at present, but a strict investigation ought to be made afterwards by a qualified staff of examiners as to the novelty of the invention, giving a report to the applicant of the result of their investigation within two months from date, the applicant being still at liberty to complete the Patent or to abandon his application.

3. Ex-parte in the first instance, but subject to opposition to prevent fraudulent applications being granted, in which case the hearing should be in public.

4. Yes, under present arrangements, but such would not be the case if greater facilities were provided to enable the public to ascertain what is patented, and what Patents have become invalid from any cause.

5. No. The applicant should be the best judge, as he alone incurs expense.

6. Patents ought to be repealed when rendered invalid or void, and a list of such published periodically, at least once a year, stating the reason of their be-

coming void, in order that the public may know which Patents are valid.

7. Yes; there ought to be one or more judges appointed for the express purpose of trying Patent causes, who should be assisted by scientific experts. The cost might be defrayed out of money received for the granting of Patents. The decision of such judge should be final.

8. If the Patent be worked by the Patentee himself, then the granting of licences should be optional with the Patentee; but if not worked within two years from the granting of the Patent, then licences to be compulsory, or otherwise the Patent to be repealed.

9. Yes, with the sanction of the foreign Patentee.

10. Yes, to either at the discretion of the inventor, but subject to international treaties with reciprocal rights.

11. No, except in the event of the formation of a separate tribunal to which might be referred the question of prolongations and confirmations.

12. The entry of a disclaimer or memorandum of alterations should not debar the Patentee from sustaining an action for damages for an infringement of the undisclaimed parts of the invention prior to the enrolment of the disclaimer or alteration.

By MESSRS. JOHN CROSSLEY & SONS.

1. We think that the present charges for obtaining Patents are very equitable for both parties.

2. We approve of the arrangement as it now stands.
3. Ditto.
4. No.
5. We think this should be left to the discretion of the law officers, who would not refuse except in extreme cases.
6. We are not aware of any difficulty now.
7. Yes. We are of opinion that there ought to be one or more judges appointed for the express purpose of trying Patent causes, who should be assisted by scientific experts, who should not be allowed to practice on their own account; the cost might be defrayed out of money received for the granting of Patents. The decision of such judge should be final.
8. No.
9. Yes.
10. Yes.
11. No.
12. No.

ANSWERS and OBSERVATIONS of MR. WILLIAM TASKER, of HALIFAX, Patent Agent.

1. Reduced to the lowest possible amount necessary to cover the working expenses of the Patent Office in an efficient manner; should say 5*l.* on the application and 5*l.* on the grant of Letters Patent, with a tax of 5*l.* per annum during the continuance of the Patent right. In France the Patent Office fees are 4*l.*, and 4*l.* per annum.

2. No. Protection for six months ought to be granted to all applicants as at present, but a strict investigation ought to be made afterwards by a qualified staff of examiners as to the novelty thereof, giving a report to the applicant of the result of their investigations within two months from date, the applicant being still at liberty to complete the Patent or abandon his application; the report of the examiners to be printed with the specifications after the expiration of six months.

3. Ex-parte in the first instance, but subject to opposition to prevent fraudulent applications being granted, in which case the hearing should be in public.

4. Yes, under present arrangements, but such would not be the case if the foregoing suggestion were adopted,

ANSWERS by MACFIE & SONS, LIVERPOOL CHAMBER OF COMMERCE.

1. The expense of taking out Patents should be increased, rather than diminished, for two reasons.

To prevent the taking Patents for frivolous inventions.

And, more particularly, to nip in the bud the tendency to patent without that sufficient investigation to ascertain whether the invention is novel or not, which the nation that grants the right to a Patent is entitled to demand.

Note. It is feared that, to save the expense, and avoid inconvenient ascertainment, which due searches and inquiries would occasion, Patents are likely to be more and more taken out without proper preliminary inquiries. It may readily become a matter of calculation with unprincipled persons whether to take out a Patent in ignorance of its novelty, and even in face of presumption that its novelty is doubtful, or to incur the expense, delay, and hazards, of taking due pains. The temptation is great to choose the worse course, by which there is a fair chance of securing fees from users who when a Patent is invalid either do not know its invalidity or will not take the trouble to contest it.

Note. There should be *penalties for proved want of proper inquiries.*

Installments are advisable, inasmuch as they encourage patenting; inasmuch as they put poor persons nearer the rich in facility for obtaining Patents; and especially, because they sometimes have the most welcome effect of shortening the term of injurious monopoly.

2. Not satisfactory. It would be well (besides requiring the due searches alluded to in No. 1) to appoint a *jury of experts* to report as to novelty.

and greater facilities were provided to enable the public to ascertain what is patented.

5. No; patents should not be refused on such grounds. The inventor or applicant is, or ought to be, the best judge of the value of the invention, or at least runs the greatest risk in the matter. The public cannot be loser by the making known of a new invention at the inventor's own expense, however frivolous and trifling and even useless it may be.

6. Patents ought to be repealed when rendered invalid or void, and a list of such published periodically, at least once a year, stating the reason of their becoming void, in order that the public may know which Patents are valid.

7. Yes. Cases of infringement should be tried in the first instance in any of the ordinary courts of law, before a special jury of gentlemen conversant with the subject matter of dispute; but either party should have the power of appeal to the Judges sitting in banco, whose decision, if confirming the judgment of the special jury, shall be final; but if not agreeing, an appeal may be made to the Privy Council, whose decision shall be final.

8. No, the law of supply and demand will settle that; but if a Patent is not worked during any one year or other fixed period of time it ought to be repealed, as is the case in several foreign countries.

9. Yes, as now.

10. Yes, to either, at the discretion of the inventor.

11. No, that matter may be settled by the Privy Council, as at present.

12. No, with the exception of any applicant being allowed to disclaim in his final specification some thing which has been introduced into his provisional and afterwards found to be not new, and be allowed to make the necessary alterations therein accordingly.

I would also suggest that the Commissioners of Patents should consist of three members eminent for their scientific acquirements; one to be conversant with mechanical engineering, the second with chemistry, and the third a barrister or law officer, with a sufficient staff of assistants, who shall devote the whole of their time to the Patent Office, and be paid liberal salaries out of the funds arising from the fees paid by Patentees.

Halifax, Jan. 14, 1863.

The experts may be consulted by circular after the Patent is provisionally secured; and they should be selected from among the *best known men of business* in the several departments of manufacture, agriculture, shipping, mining, &c., to which the inventions apply.

There may be objections to judgment being final, and no appeal allowed.

The tribunal should not be fettered by any restrictions that would interfere with the thoroughness of its examination.

Note. It would be advantageous to appoint an *advocate of public interests*, to whom should be confided the defence of the public against undue claims and all abuse of the Patent system. Without this the public must have its interests compromised.

4. Multiplicity of Patents is undoubtedly a great evil. Any method of rewarding the publishers of inventions that would shorten the term of monopoly should be hailed. The shorter the term, the fewer Patents at any one time in force. A three years maximum term would render Patents comparatively unobjectionable, use to be free thereafter.

Mem.—It is highly desirable to introduce some plan by which inventions of a kindred character which may be used in combination can be *bargained for and paid for together*. The present system fails to afford any facility for such a public accommodation, thereby rendering multiplicity a serious nuisance.

Amidst the many thousands of Patents which the cheapening of Patents has called into pernicious existence few manufacturers indeed could afford time, if even they had the opportunity, to endeavour to thread their way to ascertain what inventions are

patented; whether novel, whether worth a rush or a king's ransom, in whose hands held, &c., &c.

No classifying by the Patent Office can give any very complete relief from this formidable and growing, this inevitable bad effect of "spawning" inventions. But much more might yet be done. The greatest credit is due to the publication department of the office; still it should be encouraged to do much more, for instance:

There should be issued a monthly and a yearly list in which every invention is exhibited alphabetically under not one, but each of the several branches of business to which it directly or indirectly appertains. On such a plan of classifying, a Patent may appear under several heads. Every known trade, and every important material, should have a head.

5. Nobody need object to Patents for the most trifling novelties if the term of monopoly be at most three years, or if the value be fairly estimated, and a maximum remuneration be fixed, in the manner to be indicated.

6. It is desirable to have all obstructions cleared away from the path of commerce, and the sooner and more completely the better.

Mem.—A complete list should be issued annually of patents at the time remaining in force.

Note.—It would be well to require as a condition, without which patent fees should not be exigible, that for this annual list the publishing department should be timeously supplied with the address of the holder or agent for each. Again; it is worth some effort to devise a system by which, through repayment of a part of the original expense of patenting, or by honorariums, or otherwise, inventors may be induced to yield up part of their term.

8. In these times, when inventions are, in general, not the means of introducing new trades, but only of perfecting trades that exist, or of perfectionating inventions already in use, there should be no question that licences must be compulsory.

When parties cannot agree as to the remuneration for use, arbitration should be imperative. The court might be entitled, if the parties cannot agree as to this, to call in experts; and, in arbitrating, these should be required to take into consideration all circumstances brought under their notice, touching

The advantages and gains derivable by the patentee and the users respectively;

The charges for use that other licencees pay;

The extent to which foreign importations are liable to charges for the use of the invention in the countries of production or manufacture;

The number of other patents that the licensee has to pay for;

The cleverness of the invention;

The cost of perfecting it.

Mem.—Every person should be allowed to use an invention at once, or at the end of three years, on intimating his purpose to the patent's agent, or to the patent office.

This is requisite, as patentees so frequently neglect their patents, by not pushing them into notice.

9. Importers of foreign inventions may have three years' privileges.

10. Foreigners may have the right of patenting, but each should be bound to have an agent to grant licences here.

And their inventions, as likewise all others patented, should be invalid if not begun to be worked in earnest within a year or eighteen months.

11. No patent should be valid that has ceased to be in force in foreign countries.

In place of extending the duration of any patent, let there be a grant of money from the exchequer, as a reward in special cases.

In the foregoing answers it is assumed the principles of the existing system are to be upheld. Radical changes are, however, necessitated by the development of the manufactures and arts. And free trade renders the practical application of these changes most urgent. It is unfair, and positively suicidal, to expose British manufacturers, ship-owners, &c., to unrestricted competition with foreigners, who may be, and often are, free, in a great degree, from these undeniable restrictions and burdens, which embarrass, oppress, and hold back our countrymen.* Relief can be easily afforded without unfair treatment of true and meritorious inventors. Not to broach a too advanced plan, the following amendment is respectfully submitted:

Give a three years' monopoly, and no further privileges.

At any time within ten years let the Patentee be entitled to demand that his invention shall be valued.

Let the Chancellor of Exchequer yearly obtain a grant of money for remuneration of inventors;

If insuperable obstacles prevent a national grant, let the valuation be made at the end of the second year of monopoly, or, in exceptional cases, at a later period, and let Government, as an exceptional act, or else the manufacturers either from a sum to be by themselves subscribed, or by the accumulated sums they shall pay for licences, be authorized to purchase and throw open to the public the unexpired term of a three years' monopoly and of eleven following years of licensing privileges.

* As nobody will now advocate a return to that protection which made this evil of patent burdens unseen or unfelt, the nation must needs adjust its patent laws to its new circumstances.

ANSWERS OF MR. JAMES FLETCHER, MANCHESTER.

1. I think the price of obtaining Letters Patent should be kept as it is, and can see no reason to alter the times of payment; if it is divided into a number of small sums, payable at different times, there is a greater risk of one of them being omitted by mistake, and thus cause the Patent to be lost, even though it might be the fault of the agent, and I think in such cases, if it can be proved to be a mistake, there should be some inexpensive means of rectifying it, by the patent judge or some other constituted authority having the power to do so, and allow the Patent to proceed.

2. I think there should be a preliminary specification lodged on application, and that it should set forth the nature of the invention, and state whether similar inventions have been in use, or patented before; if so, he should be compelled to show in which part his improvement consists, and that his is an improvement, and of greater utility, and not a frivolous or obstructive Patent. If something of this kind be done, there might be a board of examiners, consisting of a scientific mechanic, a practical chemist, and a legal man,

thoroughly conversant with the Patent laws. If the applicant is not compelled to point out that similar inventions have been in use before, either as Patents, or otherwise, I cannot see how any board of examiners could be expected to find out that there is any novelty or subject for a Patent.

There are so many different things made which are not secured by Patent, which are much more likely to be known to the applicant than to any examiners not in the locality, or connected with the business; the examiners would then have to see that it was a proper subject for a Patent, and an improvement of sufficient importance.

3. The specification should be gazetted and published in the district where the inventor resides, if in England, or where the Patent is used, and also be liable to opposition.

4. If clause No. 2. be carried out as I propose, No. 4 would be unnecessary.

6. It is my opinion that if a Patent be once invalid by a prior claim or other cause, it should at once

be repealed by the Crown without any further expense to the public.

I think there should be a special court and judge appointed to all Patent cases, the jury to be selected from eminent men in their profession, who are capable of giving an opinion on the matter in dispute, and to be called from different parts of the country by the judge or some other authority, and paid by the parties bringing the action, say 5 or 10 guineas per day and travelling expenses, which would be some check against parties bringing frivolous actions, and if the case be proved, the defendant or infringer to refund the money; three or five-jurors would be as many as would be required.

8. The Patentee should be responsible for the Patent as at present, and should be compelled either to grant licences or supply the public with the articles manufactured in some reasonable time. I think that Patents should be granted to foreigners residing abroad, or through their agents, but not except they are the inventors, and parties should not be encouraged to pirate the inventions of others and come here to Patent them. By excluding all foreigners from taking out Patents many valuable inventions might be prevented from coming to this country, and might prove very injurious to its trade.

ANSWERS of the BRISTOL CHAMBER of COMMERCE.

Bristol Chamber of Commerce,
52, Queen Square, Bristol,
14th April 1863.

To Her Majesty's Commissioners on the Patent Laws.

GENTLEMEN,

In reference to the questions from the Patent Law Commissioners submitted to the Bristol Chamber of Commerce, the Committee of the Chamber beg to offer the following observations:—

That Patents, or the exclusive use of an invention for a certain time, should be granted by registration and the deposit of a specification. This would greatly decrease the number of frivolous Patents which are taken out only as puffs and for the sake of placarding "Royal Letters Patent," for then they would not be paraded as Royal grants, but be simply valued as legal rights.

This system of registration would also place the granting of exclusive rights for certain inventions upon a similar footing to that which exists with respect to copyright in books, and the Chamber considers the laws of copyright and Patents should be assimilated.

The Registration Fee should not exceed 10*l.*, and there should be no other official charge.

The only preliminary investigation should go so far as to secure a clear statement of the object of the invention to be made by some officer of the Court of Registration, fully competent by education and experience, not as at present by the Attorney or Solicitor General, who have no special qualification for the duty, and are otherwise fully occupied.

ANSWERS of Mr. J. SPENCE of LIVERPOOL.

I am of opinion that the Patent system, on the whole, is of more injury than benefit to the community. It is based on a principle correct enough centuries ago, but now obsolete. When the arts were in a barbarous condition, it was expedient to lure men's minds in the direction of Inventions to improve them. The wants of society were many and pressing, and there was room for great discoveries and for Inventions entirely novel or of prime importance. In such a state of things it may have been to the interest of the public to suffer the evils of monopoly, in order to draw inventive genius in a direction where it was so greatly wanted.

All this is changed. Every pathway of science has been explored, and the arts are brought to such a point that great Inventions are at an end, and the business of the patentee now is to contrive modifications, often little

I think if it could be shown that a valuable Patent had not been productive to the inventor, he should have the privilege of an extension of time, if he could show that he had exerted himself to push it forward.

An inventor should have no privilege of disclaiming any essential part of his Patent, but if the Patentee should find some trifling non-essential claim which would invalidate his Patent, if a good and useful one, he should be allowed to disclaim it.

There should also be an alteration made where a party entering an action for an alleged infringement, should be compelled to show that he can pay the costs, should he lose. There are many actions brought in the name of Patentees who in reality have very little to do with it, and should the trial result in favour of the defendant, he will have all his costs to pay; a great many cases of this kind can be quoted, where parties have had thousands of pounds to pay for defending an action, but would rather lose it in court than have it extorted from them.

JAMES FLETCHER.

Greengate, Salford, Manchester.

9th April 1863.

That the tribunal for trying the validity of the Registration should consist of a Judge of the Superior Courts of Westminster and six Jurymen, chosen from men likely to be acquainted with the subject-matter of new inventions. The law to be determined by the Judge and the facts by the Jury, in a similar manner to the practice of the Admiralty Courts, where the Masters of the Trinity House assist the Judge.

That if an invention has not been in use for (say) 25 years, its useful application should be considered new, although it may have been used or published before that period. This would greatly decrease the expense of supporting or proving many disputed Patents.

That it is most important to keep in view the fact, that granting the *exclusive* use of a new invention to the inventor for a certain time is not so much a favour to him as a great benefit to the public.

It is the only means by which capital can be invested in the perfecting of a new machine or manufacture, for no capitalist would invest money in a troublesome and doubtful speculation, if his success were to be at once shared or perhaps taken from him by the public; and experience points out that many of the most useful inventions are the result of long-continued experiment and labour, oftentimes pursued under great difficulties and expense.

By order. Signed on behalf of the Bristol Chamber of Commerce,

HERBERT THOMAS,
Chairman of Special Committee.

more than mere differences of pattern. This secondary field is not to be despised; but it may well be doubted whether it would not be sufficiently cultivated without the incitement of a Patent system.

The evils of the present system are serious. There is a charm in the name of a Patent which entices large numbers of men to neglect their own affairs in pursuit of some phantom. Where intellectual power exists of an inventive character, it will develop itself without any spur; it is, indeed, irrepressible in its nature. To such minds the stimulus of a Patent is superfluous; but there is a very numerous class of men of some small ingenuity, which they usually over estimate, on whom the idea of a Patent acts as that of a prize in a lottery, and with just as injurious an effect on their true welfare. Shoals of such men are always at work under this incitement, wasting time, money, and what little

talent they do possess; and the result is, as all know, that some 98 out of every 100 Patents end in loss to the parties and are worthless to the public.

Besides the progress of the arts, another change has occurred which affects this question. Formerly improvements made slow progress, and unless an inventor were protected for many years he had little chance of recompence. Now the power of advertising is so great, and intelligence is so diffused, that any really useful Invention can be brought immediately into operation and profit. Were Patents abolished, any one with an Invention of value could find a manufacturer to take it up. It is true it would be open to the rest of the world, as soon as found out, but the manufacturer would obtain the first start of all others, in itself a profit. Under the present system the legal protection breaks down in practice. The moment a Specification is published, competing manufacturers strain their wits to contrive how to reach the same result through other means or modifications; in other words, how to infringe. Against this the patentee has no remedy, except proceedings at law of the most costly nature.

No change can be proposed in Patent law that will not be open to objections based on individual cases of hardship; but, on a comprehensive view of the subject in all its bearings, I hold that it would benefit the country to abolish the system *in toto*. Manufacturers would be relieved from present perplexity, delusions would no longer be kept up by excitement, an enormous waste of money would be stayed, and whilst the mass of worthless Patents would disappear, any of real value would be taken up on its merits and produce sufficient remuneration to the inventor. As, however, such a change may be too violent for public opinion, I reply to the questions asked in their numerical order.

1. The present cost of Patents is far too low, and this has the effect of flooding the country with a deluge of Patents trivial and useless.

2. The present mode of obtaining a Patent is most unsatisfactory. Opposition is an exception to the rule, and, when made, is usually defeated. There is

no attempt to protect the public against useless, and therefore injurious, Patents. They should go before a special tribunal in the first instance, and be tested on the points of novelty and utility before they are finally granted by the Crown.

3. Such investigation should be public and open to opposition, the inventor being protected pending the inquiry.

4. Great inconvenience is experienced by the multiplicity of Patents. This will be obvious to any one who runs over the list on any particular subject. It is difficult for a manufacturer to move in any direction without treading on the toes of some sort of a patentee.

5. Certainly. The public sustain direct injury from frivolous Patents. Why create a monopoly on such grounds?

6. Invalid Patents, if trivial, are still born; if important, they are killed at law. No further means seem needed to repeal them. The remedy is to prevent their coming into existence.

7. Yes, as stated in reply to question 2.

8. No legislation needed on this point. It is seldom that the patentee is not eager to grant licences.

9. No. It may have been expedient in another age; but in the present state of the arts it is not to the interest of the country to grant these Patents.

10. Not at all. They can act through agents in this country. Such a step would increase complications already excessive.

11. I am not prepared to suggest alterations on these points.

12. As the law stands, the present system of disclaimers and memoranda of alterations needs no change. But if the Patent were tested by a tribunal, before sealing, it should then go finally to the public, and no change be permitted afterwards.

May 28, 1863.

ANSWERS by Mr. J. FAIRRIE.

1. In the present state of the law respecting granting Letters Patent, it would be unadvisable to lower the cost, but if restrictions were imposed so that no Patent could be obtained except for ascertained improvements, the less the expense of obtaining Letters Patent the better.

2. The present mode of obtaining Patents does not appear to me satisfactory. They can be obtained for mere fancies. A speculator in Patents meets in the course of his own thoughts or observations with an idea, or he hears of some suggestion which he thinks may be turned to account, and he wishes to secure the *possible* invention or discovery. It is no exaggeration that Patents taken out under such circumstances in 19 cases out of 20 are worthless. Men who spend their days in scheming in all possible subjects seldom succeed in any thing, and I believe it will be found to hold good as a rule, that it is only by persons actually engaged in manufactures that substantial improvements are made. In the course of my long experience, extending over upwards of 50 years, among all the multitude of Patents taken out for improvements in sugar refining, not half a dozen have been of any avail. To put the granting of Patents on a proper footing, it seems to me requisite that a competent tribunal should be appointed, which should not only examine specifications, but should also receive and call for evidence as to the newness of the invention, and also as to its being in reality a practicable improvement.

3. The investigation should be public, and subject

to opposition. I see no ground for objections to the present practice as to caveats.

4. I believe that public inconvenience is caused by the multiplicity of Patents, and that by the present law and practice as to Patents, manufacturing improvements are retarded rather than furthered.

5. I think Patents ought to be refused if a competent tribunal shall decide that the inventions are of a trifling and frivolous nature.

6. Invalid Patents should be repealed as soon as possible.

7. A special scientific tribunal should be constituted to try actions as to Patents.

8. It seems to me that the balance of advantage and disadvantage is in favour of having the granting of licences made compulsory; but how this is to be done is the difficulty, unless the amount to be paid for licence were left to the decision of the tribunal whose appointment I have suggested.

9 and 10. If a discovery or Invention has been made public abroad, it should not be made the subject of a patent right in this country, but otherwise natives and foreigners should be placed on an equal footing.

11 and 12. I have no suggestion to make with respect to these.

JOHN FAIRRIE,
Sugar Refiner.

Church Lane, Whitechapel,
London, 6th June 1863.

ANSWERS OF THE INVENTORS' INSTITUTE.

Inventors' Institute, 26, Great George Street,
Westminster, S.W.

MY LORDS AND GENTLEMEN,

In accordance with a resolution of the Council of the Inventors' Institute, we respectfully submit for your consideration the following answers to your questions, connected with the working of the Patent Law.

We have, &c.

RICHARD ROBERTS, C.E., Chairman.

R. MARSDEN LATHAM, Hon. Sec.

To Her Majesty's Patent Law Commission.

1. We submit that the cost of Patents should not exceed what is absolutely necessary to defray office expenses.

The high cost of Patents renders it quite hopeless for most persons with limited means to seek protection for their inventions, and numerous useful and valuable ideas are consequently lost to the public. Many inventors, knowing that they cannot afford the charges exacted, and seeing no fair prospect of being able to pay for a Patent, will not allow themselves to be led into a new inquiry, and are thus deterred from carrying on the experiments necessary to practically and beneficially develop their new ideas. Perfected inventions also of great value, which, if publicly made known would give employment for a great number of hands, are notoriously kept secret and withheld from public use owing to the expense of taking out Patents; such inventions are all doubly lost, since, if known to the public, they would become the subject of researches, which might lead to other very important and beneficial results.

The high cost of Patents moreover frequently obliges inventors of limited means, when seeking the assistance of capital, to enter into disadvantageous arrangements, and thus many hardships and great injustice are occasioned. We may here observe also, that the third and seventh years payments of 50*l.* and 100*l.* fall very heavy on many deserving inventors, who from sheer inability to pay, are compelled to relinquish valuable Patents, when just on the eve of realizing their hopes of advantage.

Even with regard to the so-called "frivolous" and "useless" inventions, the present prohibitory charges are most impolitic and injurious in their effects. A "frivolous" invention, so-called, may, nevertheless, from the extent of the demand, give employment to many idle hands; it may require for its construction many taxable materials, and form an article of export, so as to become profitable to the community, whilst a "useless" invention, so-called, will not unfrequently indicate to other inventors, who may succeed better, a want to be supplied, and so lead to the speedy accomplishment of what is desired. An invention, however useless it may seem, may be suggestive of and give rise to other inventions of undoubted practical utility, and it often happens that the first inventor, though stumbling at every step, and himself unable to achieve success, yet opens up a broad path for other inventors who come after him. The following abstract of receipts and disbursements has been prepared by a member of the Institute from the official Reports, extending from October 1852, to December 1861, published by the Commissioners of Patents for Inventions:—

RECEIPTS AND EXPENDITURE OF PATENT OFFICE 9 $\frac{1}{4}$ YEARS, Oct. 1852 to Dec. 1861.

	1852-3.	1854.	1855.	1856.	1857.	1858.	1859.	1860.	1861.	Totals.
RECEIPTS.										
Stamps in lieu of Fees -	£ 72,911	£ 53,030	£ 73,583	£ 91,116	£ 83,887	£ 83,581	£ 95,122	£ 108,132	£ 99,979	£ 761,341
Sale of Specifications -	"	834	1,286	1,361	1,463	1,371	1,682	1,439	2,051	11,437
	72,911	53,864	74,819	92,477	85,350	84,952	96,804	109,571	102,030	772,778
EXPENDITURE.										
Law Officers' Fees -	19,082	7,818	8,197	8,761	8,913	8,235	8,409	8,820	8,965	87,200
Law Officers' Clerks -	2,634	831	739	777	798	748	750	801	814	8,892
Patent Office, Salaries, &c. -	3,757	3,686	4,003	4,314	4,546	4,688	5,562	6,459	6,573	43,588
Current and Incidentals -	3,987	3,342	3,962	5,850	7,565	8,742	5,501	5,024	4,153	48,126
Compensation Fund -	4,663	4,537	4,584	4,584	4,584	4,584	4,584	4,584	4,584	41,288
Stationery -	"	"	"	"	843	1,670	1,285	1,177	2,594	7,569
Rent -	355	490	490	490	490	490	490	520	617	4,432
Printing and Lithography -	10,831	29,746	20,762	35,185	38,506	25,011	12,918	12,285	13,425	198,669
Paper -	1,288	13,052	5,500	5,799	9,161	5,644	2,857	2,419	2,786	48,506
South Kensington Museum -	"	"	"	"	1,966	1,362	1,403	1,134	1,190	7,055
Salaries for do. -	"	"	"	"	375	575	575	517	730	2,772
Index, Mr. Woodcroft -	1,000	"	"	"	"	"	"	"	"	1,000
Fitting up Offices -	"	"	3,503	"	"	"	"	"	"	3,503
Coals -	"	"	"	"	"	56	60	88	131	335
	47,597	63,502	51,740	65,760	77,747	61,805	44,394	43,828	46,562	502,935
Paid to Revenue Account -	"	"	35,100	16,685	15,275	15,370	17,725	20,195	18,485	138,815

In the foregoing abstract, the odd shillings and pence have been omitted for convenience, and the amount is added in one sum in the following statement:—

	£	£
Total receipts -	-	772,778
Payments -	502,935	
Add for difference of shillings and pence -	6	
		502,941
		269,837
Deduct revenue fees -	-	138,815
Surplus -	£131,022	

It appears, therefore, that after defraying all expenses from October 1852 to December 1861, there remained a balance of 269,837*l.*, of which sum, how-

ever, 138,815*l.* was paid as revenue fees into the governmental taxation account, leaving still unappropriated a surplus of 131,022*l.* But why a sum of 138,815*l.*, levied from inventors in the obtaining of their Patents for new inventions, should have been paid into the governmental taxation account, would seem to require explanation, there being no principle of equity, or even of sound public policy, on which so objectionable a tax can be defended.

As regards the still unappropriated surplus of 131,022*l.*, which will probably be increased by the year 1862 to 170,000*l.*, we submit that, in common fairness, this and any future surplus should be directly applied to some purpose in connection with the encouragement of inventors and the advancement of practical science.

It also appears from the foregoing abstract, that whilst the annual receipts from inventors now exceed 100,000*l.*, the actual expenses of the Government

Patent Office fall below 47,000*l.* per annum, whence it is obvious that a great reduction in the cost of Patents can be made without injury even to existing interests.

In the apportionment of the proposed reduced charge, we recommend that the charge for provisional protection should be made as small as possible. This unquestionably would be a great boon to the poorer class of inventors, who then could secure their inventions, and would thereby be enabled to treat with capitalists on more equal terms than at present for the means of bringing their inventions into public use.

With reference to the cost of Patents, we would further observe that the question, affecting as it does the whole progress of invention in this country, is one of most serious importance, and requires a thorough and liberal revision on the part of the legislature. Practical and scientific men, conversant with the state of manufactures abroad, are generally agreed that it is only by dint of great exertion, under the most favourable circumstances, that the supremacy of this country in the manufacturing and chemical arts can be maintained. The comparative cheapness of food abroad, the lightness of taxation, and the liberal encouragement afforded to science and its cultivators by foreign governments all materially contribute to counterbalance the natural advantages we possess; but the chief causes which check invention in this country, impede the progress of the industrial arts, and give the advantage to our foreign competitors, are the high cost of obtaining Patents for inventions, and the very doubtful protection which our laws extend to them when obtained; and we would urge upon our Government the paramount necessity which now exists for a greater and more liberal encouragement to invention than has hitherto been practised.

We do so in the confident belief that, were the difficulties to which we have adverted removed, it might reasonably be hoped that every new idea and every effort of invention and discovery would then be brought before the public and elaborated for the use of man. The following are the resolutions we have passed with reference to the cost of Patents:—

That it is not politic or right to subject inventors to any other expenses than such as are absolutely necessary to defray the official expenses incurred in securing to them the protection of their inventions.

That it is only reasonable and just that the existing surplus of funds levied from inventors since 1851 be directly applied to some public purpose in connection with the encouragement of inventors, and the progress of practical science.

That from the experience obtained by the operation of the new Patent law during the last ten years it is manifest that the present charges for Patents are very much too high, and we consider that the total expense attending the obtaining Letters Patent should not exceed 25*l.* That this sum should be divided into five sums of 50*s.* each, and a sum of 12*l.* 10*s.*, the five sums 50*s.* to be payable in lieu of the present 5*l.* payments, and the sum of 12*l.* 10*s.* to be payable at the end of the 5th year, or in such other manner as the Commissioners of Patents may deem advisable; but the committee recommend that the first payment should be made as small as possible.

That all further payments on existing Patents should be reduced to this proposed scale.

2. Practical benefit, we believe, would result, both to inventors and to the public, from the establishment of an official scientific body of competent and experienced persons acting in conjunction with the Commissioners of Patents for Inventions, to investigate the question of novelty on all applications for Patents, and whose duty should be to inform the applicants if their alleged inventions be new or old, leaving each applicant to determine for himself whether at his own risk he will take the Patent out or not.

But as regards the utility and importance of inventions it might be productive of great injury to inventors to empower any body of men to consider either of these points. Questions of utility and im-

portance can be safely determined by time and actual trial only; and it has been well observed that "what may appear simple and trifling in one age often becomes a great invention in another."

Many important and valuable inventions would undoubtedly have been lost to the public had the efforts of inventors been arrested in their progress by the condemnatory but erroneous opinions by which the inventions were at first assailed, opinions for the most part pronounced by the very men esteemed the most competent to judge. Mankind are always slow to receive new truths; and the history of invention and discovery affords many notable instances of great and valuable inventions having been received, not merely by the ignorant or the world generally, but by the learned and the great men of science with derision and mistrust. These views receive almost daily illustration, and facts such as the incredulity and opposition which retarded the first introduction of gas lighting, railways, and locomotives.

Franklin's discoveries with regard to electricity, Watts' steam-engine, the transmission of messages by means of electricity, the propulsion of vessels by steam, and a host of other inventions conclusively demonstrate the dangerous fallibility of human judgment when endeavouring to estimate the true character or importance of things previously unknown or little understood.

We are of opinion that no power to refuse applications for Letters Patent beyond what is now practically exercised should be conceded or allowed. The power of refusal is entrusted to official investigators in a few countries abroad, but our experience of its operation in those countries has been generally unsatisfactory, and we view the system with feelings of unequivocal mistrust. The system does not prevail, moreover, in France, Belgium, or in other nations whose policy respecting invention is more advanced than that of our own country.

Few inventions can be brought into general use in a less period than three or four years; indeed, some inventions are so far in advance of the age that a lifetime of labour is scarcely sufficient to secure not merely their adoption, but even the recognition of the scientific truths they involve. In a majority of cases of this kind, official preliminary investigation, followed by any consequent stoppage of Patents, would obviously be premature, sufficient time not having been allowed for the proper practical development of the invention, and adverse erroneous decisions in such cases would inflict not only serious injury upon the public, but would occasion the ruin of many meritorious inventors whose means had all been expended in bringing their inventions to perfection.

We would further observe that in considering the question of novelty it frequently happens that the only points of difference between a subsequent and a prior invention are distinctions extremely delicate and minute, which, though seemingly trifling and frivolous, yet constitute in practice and effect the all-important difference between failure and success. Numerous additional instances can readily be furnished, showing how highly dangerous and impolitic it would be to make an adverse decision on the part of any preliminary investigators the ground for refusing a grant of Letters Patent, but enough has been stated on the subject. We will further remark, however, that no immediate appeal would remove the difficulty in question, it being beyond doubt that no body of men, whether legal, scientific, or otherwise, are equal to the task of pronouncing authoritative and final judgment on the utility or non-importance of all the new and multifarious inventions which are continually being produced by the ablest and most ingenious minds of a country so eminent for its mechanics, engineers, manufacturers, and men of science as our own.

Still, after mature consideration, we are inclined to believe that many advantages would arise from a well-conducted preliminary investigation if its direct effect were restricted to placing officially on record

the opinions of the investigators touching the novelty of alleged inventions. We therefore recommend that a full description of the invention should be submitted to the investigators previous to the sealing of the Patent, whereupon the investigators should at once institute a search, and if they arrive at the conclusion that the alleged invention either altogether or in part is not new, their opinion with suggestions for any rectification which may seem desirable should be communicated to the applicant. If then the applicant refuses to comply with the suggestions made, and moreover cannot satisfy the investigators that they have misapprehended the subject, for which opportunity shall be given him, the opinion of the investigators should, with the sanction of the law officer, be placed on record, the applicant, however, having the right reserved to move at any future period for the cancelling of the record. An investigation so conducted would, in practice, occasion the withdrawal of applications for such Patents as would not be sustainable at law, for few inventors, on it being distinctly shown to them that their inventions are not new, would be foolish enough to proceed further in obtaining an obviously bad Patent, and thus incur needless additional expense. The public also would pay little heed to a Patent with a condemnatory official record upon it; and supposing the investigators had not distinctly erred in their judgment, any Patent of that character, if brought into a court of law, would certainly bring disaster upon the patentee. On the other hand, the investigators, feeling that their decisions, even though adverse, were not irremediable, would not be influenced by the doubts which must necessarily rise in their minds when endeavouring to arrive at decisions upon new inventions. The value, moreover, of those Patents whose novelty was undisputed would be greatly increased, capital would the more readily be embarked in developing inventions thus approved, and the inventor would be encouraged to prosecute his efforts with that energy and zeal which alone lead to success.

We submit that the following resolutions with reference to the granting of Patents, should be carried into practical effect:—

That it is desirable to recommend the official appointment of a board of investigators, before whom all applications for Letters Patent shall be presented for consideration.

That no report or opinion of the proposed official investigators should prevent any applicant from obtaining a Patent, when such applicant nevertheless persists in applying for the same.

That the official investigation shall take place under the control of Her Majesty's law officer, not on application for provisional protection, but after notice to proceed.

3. The investigation should not be public, as we consider that no official publication should take place before the actual granting of the Patent. The present practice as to oppositions, with such modifications as would result from the action of the preliminary investigators, referred to in our answer to question No. II., should still be maintained.

4. We repudiate the notion that practical public inconvenience is caused by a multiplicity of Patents.

5. As stated in our answer to question No. II., we are decidedly of opinion, that no power to refuse applications for Letters Patent, beyond what is now practically exercised, should be conceded or allowed. We would further here reiterate that part of the statement contained in our answer to question No. I., in which it is shown that the so-called "frivolous" and "useless" inventions may, and frequently do prove very beneficial to the public.

6. We see no objection to greater facilities being provided for the repeal of really invalid Patents.

7. That for the efficient administration of justice with regard to the trial of patent causes, and with regard to patent law matters generally, it is desirable that

a special court should be created, and that a permanent commissioner should be appointed who might be termed the "Commissioner in Ordinary;" that such permanent commissioner should be empowered to deal with disputed questions of Patent right, and that all causes and judicial proceedings relating to Patents and inventions should be subject to his jurisdiction.

That one appeal from the permanent commissioner's judgments ought be deemed sufficient and final, and it is desirable that such appeal should be dealt with by the Privy Council.

That the permanent commissioner should be empowered to decide causes and questions without a jury, as is done in the county courts, but a special scientific jury should be empanelled, when demanded, by one or both of the suitors in any cause, or an ordinary jury of twelve should be empanelled, provided both suitors consent to the adoption of that course.

That a list of persons competent and willing to act as scientific special jurymen should be made out, a jury of three, five, or seven to be selected from such list by the suitors in cases where such a jury is demanded, and in the event of the suitors not agreeing then by the commissioner, before whom the cause is to be tried.

That the sittings of the special court should not be restricted to London only, but that such sittings should from time to time be held in the county courts (if convenient) of our great seats of manufacture, such as Birmingham and Manchester.

That if approved of by Ireland and Scotland, it might be desirable that similar commissioners should be appointed for those places.

As showing the urgent necessity for reforming the present system of legal procedure with regard to the trial of patent causes, "a system fraught with grievances so great as in many cases to amount to a 'practical denial of justice,'" we would here quote the following cogent remarks of Thomas Webster, Esq., F.R.S., a barrister well known in connection with patent law questions. "It may be expedient to trace the 'progress of a contested action on copyright or patent right, many actual cases of which may be cited. 'The first step, notwithstanding the extension of 'jurisdiction recently conferred on the Courts of 'Common Law, is generally a Bill in Equity presenting a view of the case which at the time appears 'most calculated to answer the object in view. This 'application is supported and opposed by affidavits 'and counter-affidavits of indefinite expansibility. 'The words of Lord Lyndhurst, when speaking on a 'recent occasion on the mode of taking evidence in 'the Court of Chancery, admirably expose the pernicious consequence of this system. 'The basis 'of an affidavit is supplied by a scientific witness, 'then it is drawn by a solicitor, and settled by 'counsel, the result of which elaborate process is 'naturally a confusion of the scientific facts. It is 'commonly the case that unpractised witnesses, who 'may be quite conversant with the manufacture in 'question, and who give valuable evidence upon it 'as the basis of the affidavit, are continually induced 'to accept the *ex parte* version of it, without really 'understanding the effect of what is ostensibly their 'own evidence.' The filing of affidavits having 'ceased, the motion is arrived at, and arguments of 'greater or less length are heard before a judge, 'perhaps the most competent from knowledge and 'position to weigh the similarities and dissimilarities 'of the conflicting affidavits settled as explained 'with all the professional skill, scientific and legal, 'that money can command. The parties are then 'handed over to, and have to start afresh before 'another tribunal, for a trial by jury. This stage 'passed, the matter is ripe for the opinion of the 'Court on the points of law reserved at the trial, 'the result of which is generally (if funds do not 'fail) either a new trial or an appeal to the Ex-

"chequer Chamber, thence to the House of Lords, and a return, after some indefinite period, to the same learned judge in Equity with whom the proceedings commenced, and probably to a rehearsal before the Lords Justices, or the Lord Chancellor, as the finale, unless the learned judge in Equity, on the matter being brought before him the second time, should order a new trial. The even tenor of the progress of this drama may be interrupted by various interlocutory applications, sources of great delay and expense, to the courts of equity and law, to the judge at Chambers, by a commission to examine witnesses abroad, and probably a *scire facias* to repeal the Patent."

8. No. Certainly not.

9. Yes. But without prejudice to the foreign inventor.

10. We see no objection to the existing practice being continued.

11. We think much greater liberality should be observed in the treatment of applications for prolonga-

tions and confirmations of Letters Patent; and with regard to confirmations of Letters Patent, such an amendment should be enacted that the inventor or introducer of an invention may more readily and with greater certainty have his Patent confirmed, notwithstanding a limited prior use.

12. It is very desirable that all grants of disclaimer and memoranda of alteration should be subject to such regulations as will secure greater consistency of practice, and that one appeal should be allowed. Whilst on the subject of disclaimers and memoranda of alteration, we would take occasion to strongly recommend, that memoranda of addition for improvements should be allowed to be filed at a small cost, and that such additions should be incorporated with and taken as forming part of the original invention.

In addition to the foregoing answers, we also again respectfully refer you to the Report of the Inventor's Institute, forwarded to you on the 5th February last, copies of which are enclosed herewith.

RICHARD ROBERTS, C.E., Chairman.
R. MARSDEN LATHAM, Hon. Sec.

ANSWERS OF CHAMBER OF COMMERCE, WOLVERHAMPTON.

1. The fees for securing Patent rights should be such as will cover at least, the entire expenses of a Patent Office, including both the Court and registry.

It is probable that with an efficient Patent Office and moderate fees an annual surplus might accrue to the public revenue.

It is desirable that only a small sum should be payable for preliminary registration, and that afterwards the payments should be annual and increasing rapidly in amount every year.

2. The present mode of obtaining Patents does not appear to be satisfactory. Before any Patent is granted there should be an investigation by a competent tribunal into the merits and originality of the alleged invention. The tribunal should be constituted partly of lawyers and partly of men skilled in scientific and mechanical studies. The judgment of this tribunal should be final, like that of the Encumbered Estates Court in Ireland; for if an appeal be allowed to the Court of Chancery all the present evils will exist and be aggravated.

3. The investigation should be public and subject to competition. The preliminary registration ought, however, to be obtained as a matter of course, and to be valid until the Court has given its decision.

4. Yes.—There is constant danger, if anything is new and successful, that it may be forced to trespass at some point or other on some Patent right. The want of arrangement also of existing Patents is much felt, and it would be well if a catalogue of Patents were regularly published.

5. It would be one of the main advantages to be looked for from a Court, some of whose members were men of scientific attainments, that it could safely and with justice refuse many frivolous Patents. It might also allow Patents for a long or short period according to their value and importance.

6. Yes; Patents should be declared invalid unless worked in business within a certain time of their being granted.

7. The Court instituted for advising the grant of Patents should also be the Court for deciding any suits for infringement, and its decision should be conclusive as to the infringement, but the question of damages should, if either party prefer it, be left to a jury.

8. It is highly desirable that every patentee should grant licences, but this Council cannot suggest any plan by which this could be made compulsory if due regard be had to the rights of the patentee.

9. No.—The only persons who can claim a benefit

from an invention as against the public are the inventor and his nominees. If brought here by any one else the invention should be free.

10, 11, 12. No answers.

Further Memorandum.

There are two objects for which the proposed Patent Court would exist.

1. To protect the public from the issuing of Patents for trifling and frivolous inventions, or for inventions so called of processes and contrivances that have been in use before.

2. To protect patentees from any infringement.

1. So far as the first object is concerned it would be comparatively easy for a well constituted Court to decide whether an invention was or was not of such novelty and importance as to deserve protection. It would not, however, be easy, or rather it would not be possible, to decide that a so called invention was really new. Whatever publicity might be given to the hearing and whatever notice, there would be always a possibility that those most interested might not hear of the application; nor again would it be just to require that persons who had long used a process or contrivance which was sought to be patented should have to appear to oppose the Patent. In many trades there are processes that are kept absolutely secret, and firms have risen to eminence as manufacturers of certain articles and goods whose mode of working is unknown. If any person should ascertain or rediscover these processes, and should apply for a Patent, it is not only possible but probable that those who had previously used the so called invention might not be present to defend their rights; for the case is one in which no advertisement or notice in the Gazette could fairly be held to be sufficient. But unless all parties concerned can be shown to have had sufficient notice the judgment of the Court must be *ex parte*—for no Court can of its own proper knowledge affirm that an invention is absolutely new. The Court would therefore decide absolutely that an invention was of such importance as to deserve a longer or shorter protection; but the question of originality would remain and must remain as now to be decided in the several cases in which an infringement might be alleged.

2. As to the second use of a Court,—the protection of patentees,—it appears to this Council that such a mixed tribunal as has been suggested would be far more capable of deciding the question of infringement than the present Courts of Law and Juries.

ANSWERS OF JAMES THOMSON, M.A., C.E., Professor of Civil Engineering in Queen's College, Belfast, and of WILLIAM NEILSON HANCOCK, LL.D., Secretary to the English and Irish Courts of Law and Chancery Commission.

1. The cost now payable by stamps, exclusive of some fees to the Law Officer (and for scientific advice to Law Officer in case he should require the same), appears to be as follows :—

	£
Stamps prior to granting Patent	- 25
Do. before end of 3 years	- 50
Do. before end of 7 years	- 100
Total	<u>£175</u>

This amount is greatly in excess of the sums payable in other countries, and we are of opinion that it should be reduced in amount to 70*l.* at most; we also think that the payment of this sum will be less onerous by having it made in annual instalments during the entire period.

A first payment of 18*l.*, with 13 annual instalments of 4*l.* each, making 70*l.* in all, is the scale which we would recommend.

2. We are of opinion that the present mode of obtaining Patents is not satisfactory.

We think that there ought to be a preliminary investigation of a more searching character than at present takes place.

We think that there should be a permanent officer, to be called a "Judicial Commissioner," of high legal and scientific attainments, charged with the duty now discharged by the Law Officer, with respect to ascertaining that the Provisional Specification is a fair and correct description of the nature of the intended invention, and that such Judicial Commissioner should be enabled to issue certificates allowing the same, and giving the benefits of provisional protection, similar to those now existing under 15 & 16 Vict. c. 83.

We further think that on the Judicial Commissioner should be imposed the duty of carefully examining, with the assistance of an adequate staff of clerks, into the *novelty* of each invention, so far as the same can be tested by the records of Patents previously granted, or by Encyclopædias or other books treating of known processes of manufacture, &c.

An examination such as is here suggested is made in the United States (a country most fertile in inventions), in the office of a Commissioner appointed for that purpose, with the effect (as stated in the report of that officer for the year 1849) of the rejection of two-thirds of the applications.

If the Judicial Commissioner should, as the result of the examination, not find reason for considering the proposed invention an improper subject for Letters Patent for want of novelty, he should grant provisional protection for the invention, and then direct that particulars of the invention should be advertised, and that at the same time notice should be given that he would report in favour of the grant of Letters Patent to the applicant, unless good cause were shown to him against the same on a certain day (say six months afterwards) in public Court. Letters Patent should on that day, if no objection was made, issue as of course as the result of the decision.

If, however, objection should be made, we think it should be competent for the Judicial Commissioner either to try the case in public in his own Court by himself, or with the aid of assessors or a jury, or to send an issue for trial to any Court of Record in the United Kingdom, should he think this latter course desirable for the sake of saving expense or otherwise.

If the Judicial Commissioner should, as the result of the preliminary investigation in the office, be of opinion that no Letters Patent should be granted, we think that it should be competent to the applicant to have a hearing of his case before the Commissioner in public Court (without prejudice to his position should judgment be in his favour), where the Com-

missioner could hear counsel and have the assistance of assessors or a jury, as he might think fit.

In all cases we think there should be an appeal from the judicial decision of the Commissioner, and we think that the Judicial Committee of the Privy Council, which at present is the Supreme Court for Patents, should be the Court of Appeal.

As to the intervention of the Law Officers, we think that, instead of exercising judicial functions as at present, they should be confined to their ordinary functions of protecting the public by taking proceedings before the Judicial Commissioner in such cases as they may think desirable, and that, to enable them to do so, they should have notice of all cases where the Commissioner had advertised his intention of recommending the granting of Letters Patent, if no objection should be made, as well as where the applicant insisted on having his case heard by the Commissioner in Court before final rejection.

In the latter class of cases especially, we think that it would be proper that the Law Officers should appear to oppose the grant of Letters Patent that appeared to the Commissioner *prima facie* objectionable.

3. With respect to the first part of the question, as will appear from the preceding answer, we think that the preliminary examination alone should be *ex parte*, and that all the subsequent steps should be public and subject to opposition.

With respect to the second part of the question, we have not any special suggestion as to the practice as to caveats to make.

4. There can be no doubt that the multiplicity of Patents produces considerable inconvenience. The plan which we have recommended of authorizing the Judicial Commissioner to stop the granting of Patents for want of novelty would effect a large reduction in the multiplicity of Patents, without interfering with the rewards of true and original inventors.

The multiplicity of Patents in force would be largely reduced by the system of annual payments which we have recommended, as it would in general be only on really useful and valuable Patents that the patentees would continue to pay the annual charge, and so Patents for inventions of a trifling or frivolous character would in general have a very short duration.

5. As to whether Patents should be refused on account of the trifling or frivolous nature of the inventions for which they are claimed, we entirely concur with the opinion that was expressed by James A. Lawson, Esq. (now Solicitor General for Ireland), in his report on the Patent Laws, made to the Social Inquiry Society of Ireland in 1851. In it he says, "It is dangerous to give the Court any discretion "with respect to the utility of the invention; novelty "is a matter of fact; utility is a speculative question, "which could not be satisfactorily decided upon, and "which time only could test; and it is better that "many Patents for useless things should be taken out "than that any useful invention should be excluded "from the privilege."

6. We think that if our suggestion as to the appointment of a Judicial Commissioner be adopted it will be desirable to substitute for the present complicated and expensive proceedings by *scire facias* a simple application on summons to the Judicial Commissioner, who should have power on the hearing of such summons to set aside any Patent that should be proved invalid for want of novelty or other defect. We think that in the exercise of this power, he should if he consider it desirable be assisted by assessors or by a jury; or by the result of an issue sent by him to some Court of Record.

7. We think the jurisdiction of the Common Law Courts as to infringement of Patents should still continue, and that the jurisdiction of Equity should

also continue ; but we here also entirely concur in the opinion of Mr. Lawson, as contained in his report, already referred to, that "In any proceeding in Courts of Law and Equity by the patentee, the Patent shall be conclusive evidence that the invention is a novel one, and that the Patent was duly obtained ; and that the only question that should be tried in an action for infringement shall be the fact of the infringement and the amount of damages, but that any party who was sued for such infringement, or against whom an injunction was sought, should have power of staying the proceedings until the result of an application to cancel the Patent was known."

We also think that in cases where the damages claimed do not exceed the amount recoverable in local Courts, the patentee should be expressly enabled to sue in those Courts.

8. With regard to Patents generally, we think that a system of compulsory licences as applied to articles of trade might seriously interfere with the production of the commodity, as the patentee would be deprived thereby of making the best arrangement for the successful working of his invention. We can, however, readily conceive cases, such as inventions connected with the electric telegraph and railways, where public inconvenience might arise from granting an absolute monopoly.

It appears to us that such cases would be best met by introducing clauses in the Patent fixing the terms on which the patentee shall be bound to grant licences; such clauses to be framed in an appropriate manner for each particular case, just as clauses regulating tolls are introduced into Canal Acts, and clauses conferring running powers are introduced into Railway Acts.

9. We think that Patents should not be granted to importers of foreign inventions ; such persons are not entitled to the merit of inventors, as they are simply copyists, and now that the intercourse with foreign countries has been so much facilitated by steam and promoted by free trade, the humble deserts of copyists of foreign inventions become even less entitled to reward.

10. We think that Patents should be obtainable by foreigners residing abroad, or by their nominees, provided that application be made by them within a period of, say, two years from the date of their obtaining a Patent in their own country, or within a more extended period, if the invention has not been previously to the application publicly used in the United Kingdom. The privilege not to continue in

the United Kingdom longer than the duration of the first foreign Patent.

We think this is but simple justice to a foreign inventor, and of course, as such, is an essential condition of our having any chance of success in obtaining in foreign countries a proper recognition of the rights of British inventors.

11. We think the proposed Judicial Commissioner should have jurisdiction for prolonging and confirming Patents, subject to the same conditions as now exist, an appeal lying from his decision to the Judicial Committee of the Privy Council. Of course under the system suggested by us, the question of confirming would arise in cases where an application to the Judicial Commissioner to cancel the Patent would for the purposes of defence in a particular action for infringement be successful in temporarily cancelling the Patent. It should, we think, under the proposed system be in the power of the Commissioner to confirm the Patent where the inventor believed himself to be the first and original inventor, and the invention had not before the date of the Letters Patent been publicly and generally used. Public notice should be given, and an opportunity of opposing in public Court, both the prolonging and confirming of Patents, as in the case of granting new Letters Patent.

12. We do not feel confidence in suggesting any alteration in the law as to Disclaimers and Memoranda of Alterations, save that if our previous suggestions be adopted, application will of course be made to the Judicial Commissioner, and the reference to the Law Officer will be no longer necessary in the first instance; but we think that notice by advertisements should be given, and that the subsequent proceedings should, so far as regards affording facility to all persons to object, be assimilated to those observed where Patents are granted.

We may conclude by suggesting the Probate Court as a kind of type of the Court we have in the foregoing suggestions ventured to recommend. We think that many points of analogy will occur to the Commissioners with regard to the subject-matter of the two Courts ; and we would entertain the hope that if a Court, constituted as far as may be on similar principles to the Probate Court, were created for the granting of Patents, great benefit would accrue both to inventors and the public.

JAMES THOMSON.

W. NEILSON HANCOCK.

3, Donegal Square East, Belfast,
5th March 1863.

ANSWERS to the QUESTIONS of the COMMISSIONERS circulated by the CHAMBER of COMMERCE AND MANUFACTURES in the CITY of GLASGOW.

Answers to Question 1.

By W. J. MACQUORN RANKINE, C.E., Professor of Civil Engineering in the University of Glasgow.

The costs should be adjusted so as to be just sufficient to pay the expenses of the Patent department (including cost of publication of specifications, drawings, indexes, and abstracts, library expenses, &c.) The cost should be paid by instalments.

By EDMUND HUNT, Esq., Consulting Engineer in Glasgow.

The present cost of obtaining Letters Patent is, in Government duties, 25*l.* during the first six months, 50*l.* at the end of third year, and 100*l.* at the end of the seventh year. The first 25*l.* is paid at four separate stages, 5*l.* on applying for Patent (upon which provisional protection is granted), 5*l.* on giving notice of intention to proceed with the application, 10*l.* on sealing, and 5*l.* on the final specification. This completes the Patent, and is accompanied by the charges of the professional agent for advising, preparing documents, drawings, &c. amounting on the average to about 20*l.* making with Government duties say 45*l.* to obtain a complete Patent in the first instance.

If the further duties of 50*l.* and 100*l.* are paid the Patent remains in force 14 years, but becomes void at the end of the third or seventh year if they are not paid.

In considering the cost of obtaining Letters Patent we must consider the duties (25*l.*) payable the first six months, apart from those payable afterwards, for it is this first cost alone which an intending patentee usually takes into account. He thinks his invention will surely show what its value is in three years, and it will then be time enough to consider whether or not he will invest 50*l.* to keep the Patent in force. This (first) cost is a question for the inventor in the first place and for the legislature in the second. In my opinion very few if any inventions remain unprotected and become lost because of the cost of a Patent being too great. From a legislative point of view it seems to me that the question should be answered by a reference to the number of Patents. Now the number of applications for Patents is about 3,500 per annum, or say 10 per diem, and I think that with that number it cannot be said that the cost of a Patent in any way checks the bringing out of inventions. One of the effects of reducing the costs of obtaining Patents would be to open the door to more of the "trifling" and "frivolous" Patents referred to in Question 5.

I do not think the first cost of a Patent should be increased. With regard to the later payments for *upholding* the Patent, 50*l.* at the third year and 100*l.* at the seventh year, it is my opinion that more revenue would be produced, and the payment of it be less felt by patentees, if there were substituted payments of 20*l.* each at the ends of the 3rd, 4th, 5th, 6th, and 7th years, and of 50*l.* at the 8th or 9th year. In the majority of cases three years is too soon for the invention to afford so heavy a tax as 50*l.* Further, when at present a tax of 50*l.* or 100*l.* is payable it is often a question with the patentee whether or not he will abandon his original Patent or take out a new one for some trifling improvement on his original plans. This is now often done although attended with great risk. It is quite a mistake though very common to consider the non-payment of these upholding taxes as proof of the inventions not having succeeded. Were each of the earlier separate upholding taxes much smaller than the amount required to get a new Patent the tax would be paid in many more cases than at present, and new Patents would *also be taken* for improvements of any real value.

By JAMES RICHARDSON & Co., Merchants,
Glasgow.

To diminish the cost of obtaining Letters Patent must, if there be no adequate provision for weeding out worthless or wanton intrusions, be prejudicial, because it will increase the numbers of what are practically hindrances in the way of manufacturers disposed to improve. There are many reasons for rather increasing the cost, one of which is, it will lessen the temptation to take out Patents without adequate previous investigation as to novelty.

There are some advantages in annual instalments, one of these being its tendency to let unremunerative and neglected Patents drop.

By EBENEZER HENRY, Manufacturer, Glasgow.
Diminished annual instalments.

By JOHN FINLAY, 46, Buchanan Street, Glasgow.
I think the present cost of Patents should be diminished, and that an annual sum during the currency of the Patent would be better than the present mode by instalments.

By JOHN RONALD, Merchant in Glasgow.

The cost of obtaining Patents should be as little as possible, and payable in one sum at the time the Patent is applied for.

By A. M. PATTISON, Esq., Agent for the Bridgewater Trust, Glasgow.

The present cost of obtaining Patents is moderate, and the system of payments good.

By MESSRS. MITCHELL and WHYTLOW, Manufacturers in Glasgow.

We think the cost of obtaining Patents should be reduced, so as to enable a poor man to patent a useful invention. The cost, including all expenses, we have found ever yet to be in round numbers 100*l.* If it was 50*l.*, and spread over two years, it might meet the above case.

By MESSRS. WALTER MACFARLANE & Co., Iron Founders, Glasgow.

The cost should be diminished not more than what is necessary to cover all expenses.

In three payments, namely, on granting, third year, and seventh year.

By the INSTITUTION OF ENGINEERS in SCOTLAND.

The first query may be subdivided into three. To the first part, A., "Should the cost of obtaining Letters Patent be diminished or increased?" eleven members replied in favour of the cost being diminished, and three against any alteration, the latter suggesting that the surplus revenue should be applied to benefit inventors or poor mechanics. As to B.,

"To what extent?" the eleven in favour of a reduction for the most part considered that the costs should be reduced to what would barely cover office expenses. As to C., "Should the payment be made in one sum, or by annual or other instalments?" about 18 were in favour of the present plan being retained, one in favour of annual and gradually increasing payments, and one in favour of a single payment.

Answers to Question 2.

By W. J. MACQUORN RANKINE, Esq.

Satisfactory on the whole. Such an investigation would be desirable, if practicable, but it would probably be found impracticable.

The probable impracticability just mentioned would arise in a great measure from the difficulty, if not impossibility, of forming a suitable tribunal. Such a tribunal ought to contain lawyers and men of science, and suitable members of those classes could no doubt be found; but in order to make it complete, it ought also to contain men practically acquainted with every branch of manufacture, and at the same time not personally engaged or interested in any manufacture, and it would be almost impossible to obtain suitable members of this class. The judgment ought to be final.

By EDMUND HUNT, Esq.

The manner in which Patents are at present granted appears to me most unsatisfactory, in respect that there is no check whatever upon the granting of Patents over and over again for the same thing. There ought most certainly to be a more searching investigation respecting each application for a Patent than at present, namely, respecting the *novelty*. The idea, however, of a *tribunal and judgment* (hinted at in this query) seems to me extravagantly wide of the mark. I do not know if the question of *utility* is contemplated in this query, but I do not believe that this question can be satisfactorily disposed of at any time, and much less in the infancy of an invention, by any official or judicial investigation. The question of utility, however, is more properly brought up by Query 5.

With regard to *novelty*, what is wanted is not a judicial decision, but simply the communication or publication of a fact. If the subject matter of a Patent is not new, or has been patented before, the more recent Patent is simply invalid and worthless as the law now stands. It seems to me simply honest and just, when the inventor asks and pays for protection for his invention, that he should be told whether or not protection has already been granted to any other person for the same invention. It is true that the Patent Commissioners now publish the Specifications of all Patents, and intending patentees can examine them to see if their inventions have been anticipated. The difficulty and expense of searching in this way is, however, often very great, as will be understood when it is mentioned that there are about 45,000 Patent Specifications at present in existence. If patentees were all to search for themselves, there would be an enormous waste of labour, and very uncertain and unsatisfactory results, whereas the thing would be comparatively easy, and much more certain and satisfactory, were such searches made by a staff of examiners permanently employed by Government, each individual of the staff confining himself to a particular subject, and of course being "well up" in it. A very large staff would not be required, and is not found necessary in the United States, where the system has been in operation for many years. (The American system has, however, the faulty feature attached to it of arbitrary decisions as to the granting or refusing of Patents being founded on the searches made.)

In my opinion the applicant for a Patent is entitled to the fullest information the office can afford him regarding previous Patents, and that information

should be as conveniently accessible to him as possible. To carry out these views a staff of examiners should be appointed by the Patent Commissioners, and a search as to novelty should be made by them respecting every invention sought to be patented. A report giving the result of the search, and stating the dates of earlier Patents bearing on the subject of his invention, should be given as soon as possible to each applicant, and he should be allowed to complete his Patent if he thinks fit. Then, supposing the present system of publishing each Patent Specification at the six months end to be continued, *the examiners report should be published along with the Specification for the benefit of the public, and as a check upon the patentees completing a Patent for something previously patented.* For some time past I have given a great deal of consideration to the plan suggested, and I believe its adoption would effect a very great improvement in the existing system. I would not have an extra tax imposed to cover the expense of this examining staff, as I think that extra expense can be well afforded by the present Patent revenue, and I think that the 5*l.* paid on applying for a Patent is quite enough to entitle the applicant to know whether his invention has been previously patented or not.

By Messrs. JAMES RICHARDSON & Co.

It appears possible to devise a system by which preliminary investigation may be dispensed with, for instance, the use of every patented invention might be thrown open to the public on payment of due fees, and at the point at which these fees shall be made payable, the proof of novelty might be required, as well as where parties differ, adjudication as to the rate or amount of these fees.

Whatever investigation is undertaken should be thorough. We do not see how it can be thorough, unless the best known manufacturers in the businesses within whose range the invention lies, are called in or consulted by circular to depone as to novelty or the reverse.

We are afraid of mischief from judgments being final, the tribunal should not be tied to all the formalities, and limited by the range of an ordinary court of law.

By EBENEZER HENRY, Esq.

Yes. Do not know. Yes.

By JOHN FINLAY, Esq.

The present mode of obtaining patents I think unsatisfactory. I think a preliminary board of investigation who would search into the originality of design, application, or invention, would be of great use and service both to the patentee and the public.

This board might also try the validity of alleged infringements on the rights of patentees.

As there is one law now for the whole kingdom, one board, sitting in London, might do the above and try all questions arising from patents and from whose decision there should be no appeal.

It is well known that there are plenty of eminent lawyers, who are well versed in science and mechanics, let such a one be appointed with two professors from colleges, say one of moral philosophy and mechanics and one of chemistry.

The decisions of three such persons every one would respect, were they unanimous, and if not unanimous an appeal might be allowed to the House of Lords.

By JOHN RONALD, Esq.

The present mode of obtaining Patents is not satisfactory. With the application for a Patent a pretty full if not a complete specification should be given in, and not as now a loose, vague one to lie over for a considerable time for amendment, which is injurious to other applicants.

By A. M. PATTISON, Esq.

Unsatisfactory Patents should only be granted for what are really inventions, something that embraces a new principle, and the Patent should include all

within that principle. There ought to be tribunals of men of note well versed in science and manufactures to decide on all applications for Patents, say three gentlemen in each department of science to judge and decide on the application for Patents in their several departments, their decision to be final.

By Messrs. WALTER MACFARLANE & Co.

1. No. 2. Yes. 3. An official body of scientific and practical persons whose duty it would be to say whether the invention sought to be patented is old or new, leaving the applicant to determine whether he will take out the Patent or not—appeal not desirable.

By the INSTITUTION of ENGINEERS of SCOTLAND.

The second query may be subdivided into four. As to A, "Is the present mode of obtaining Letters Patent satisfactory?" All present (about twenty) replied in the negative. As to B, "Should there be a more searching preliminary investigation?" All replied, "Yes, as to novelty;" one adding, "And utility also." As to C, all replied that, "The investigation should be conducted by a board of scientific and practical men." As to D, all agreed, "That there should be no final judgment or refusal of a Patent, but the report of the examining board should go to the public with every patentee's printed specification."

Answers to Question 3.

By W. J. MACQUORN RANKINE, Esq.

The investigation, if any, should be private.

By EDMUND HUNT, Esq.

A reply in part to this query is involved in my reply to Question 2. I think the present practice as to caveats and oppositions may be advantageously dispensed with, if for no other reason, simply because the provisions for opposing are at present hardly ever availed of. In my own experience not more than two Patents in every hundred are opposed. 5*l.* is at present paid at the opposition stage, and if the total cost of the Patent is not to be reduced, I would omit this stage with its payment of 5*l.*, and make 15*l.* instead of 10*l.* payable on sealing.

By Messrs. JAMES RICHARDSON & Co.

We think it doubtful how far caveats ought to be adhered to. Pilfering of inventions while under process of maturing might be made penal, if followed by the act of patenting.

By EBENEZER HENRY, Esq.

Public. Subject to opposition.

By JOHN FINLAY, Esq.

Patentees and infringers might be heard themselves, or by counsel. Caveats while before the Courts are good.

By JOHN RONALD, Esq.

If any person thinks he has a right to object to the granting of a Patent, he ought to have good opportunity given to him to do so, but, if unsuccessful, he should pay the whole expenses of both sides.

By A. M. PATTISON, Esq.

Public and subject to opposition: caveats to be continued.

By WILLIAM BROWN, Esq., Merchant, Glasgow, to Questions 1, 2, and 3.

If the present system of granting Patents is to be continued, I think the mode of proceeding and the fees that are charged are reasonable and fair.

An open investigation would, I conceive, defeat the ends in view.

By Messrs. WALTER MACFARLANE & Co.

1st. Public: only subject to opposition on the ground of infringing on a prior Patent. 2nd. Yes; the present practice is quite satisfactory, having ourselves had occasion to bring a case before the late

Solicitor General, Sir Hugh Cairns, we had ample opportunity of forming an opinion, the process is short, simple, and effective.

By the INSTITUTION of ENGINEERS in SCOTLAND.

A reply to the third query was generally acquiesced in to the effect that "the investigation should be public, and only subject to opposition on behalf of earlier Patents, in which case the present system of caveats would be superseded."

Answers to Question 4.

By W. J. MACQUORN RANKINE, Esq.

Yes; but not greater than attends the working of many other useful institutions.

By EDMUND HUNT, Esq.

Not as yet; the *public*, apart from inventors and patentees, is, as far as my observation goes, quite apathetic regarding patent law reform. As bearing on this point, it may be noticed that the number of law trials for infringements of Patents is astonishingly small, when it is considered what an immense number of Patents are in force.

By MESSRS. JAMES RICHARDSON & Co.

There is much inconvenience from the multiplicity of Patents. We want some system by which a variety of Patents affecting a particular business might be combined in the matter of fees or remuneration for use.

The present system gives no facility for such a public accommodation, and therefore makes the multiplicity a nuisance.

The very inspection of thousands of Patents is a labour few can undertake, even though they had access to libraries where the series of Patents are kept. This latter inconvenience might be greatly modified if there were a yearly, half-yearly, or quarterly publication of the Patents at any one time in force, and especially a much more definite and demonstrative classification than has yet been effected. A proper classification involves the arranging of Patents under heads corresponding to every one of the principal employments of our country, in the several departments of agriculture, mining, manufacturing, shipowning, &c., &c. Of course the same Patent might appear under a great number of these separate heads.

By EBENEZER HENRY, Esq.

Yes.

By JOHN FINLAY, Esq.

No.

By JOHN RONALD, Esq.

Far too many Patents are applied for, and very many of them are not carried out to the obtaining of the Patent; but if people will apply for them, let them do so, that is their affair. This would to some extent be corrected if my views on questions 1st and 2nd were attended to.

By A. M. PATTISON, Esq.

Very serious inconvenience; every application for a Patent at present seems to be granted, though all that is claimed is but the very slightest alteration from something in previous use. Many of the Patents if tried at law would never stand, but under threats of proceedings at law, royalties are often paid rather than have the expense of a lawsuit and the loss of time from business that is necessary to contest it. Also merchants and consumers of many patented articles are often unwittingly led into an infringement; the Patent claimed is a certain way of producing the article or a substance used in producing it; there are often six or eight Patents for the various ways of producing it, or of the substances used; when produced the article by them all is almost the same, in many cases the same in appearance. A merchant or consumer buying from one of the patentees, is liable for infringement should the maker

have produced it by any other process than his own, if it is a process patented by another. If the Patent laws had granted to the first inventor of that class of goods to embrace all the processes under his Patent, the public could never then be misled.

By WILLIAM BROWN, Esq.

I think the multiplicity of Patents is the cause of much inconvenience.

By MESSRS. THOMAS WINGATE & Co.,
Builders, Partick.

Yes.

By MESSRS. WALTER MACFARLANE & Co.

No.

Answers to Question 5.

By W. J. MACQUORN RANKINE.

No.

By EDMUND HUNT.

As stated in reply to 2, this query raises the question of *utility*. No examining board can satisfactorily pronounce on the utility of an invention. There is no broad and well-marked step between what may be trifling or frivolous and what may be useful. The qualities gradually merge into each other, and no *line* can be drawn. Whether a new contrivance or plan for any imaginable purpose is patentable or not, is a question of principle, not of size, degree, value, or importance. An alleged improvement can be measured with accuracy *by practical trial alone*. A practical worker in some one department may be able to form beforehand a very accurate idea whether a new contrivance will prove valuable or not in *his* department; but the necessary practical experience in *all* departments could not be condensed into the limits of a board of examiners. It is no doubt true that many Patents are taken out, not only for trifling and frivolous things, but also for things having the best objects in view, but ignorantly conceived and certain to fail on trial; but it seems to me that the way to avoid such Patents being taken is to alter the law, by which at present a Patent is invalid if the inventor happens to have published or publicly used his invention before applying for a Patent. To my mind the present system is, in this respect a mere lottery. Inventors rush to patent the wildest schemes before trying their feasibility, from fear of an experiment invalidating the Patents. It should be enacted that a Patent shall not be invalidated by the use of the invention privately or publicly by the inventor or by any one obtaining the knowledge of it from him for a period to be determined (say six or twelve months) prior to the application for the Patent. Inventors would thus be free to try their plans in safety before throwing away money in patenting them, and in this way trifling, frivolous, and mistaken schemes would get weeded out. *Moreover valuable improvements which are now unpatented and lost would be rescued*. It may be mentioned that a clause equivalent to the one proposed was introduced into the Patent Act for India, passed two or three years ago. The ideas of a *tribunal* and *judgment* referred to in Question 2, are involved in the subject matter of this Question 5. We can only understand the working of a *tribunal* and a *judge* when there is some *wrong* to be righted, some *crime* to be punished, or some *dispute* to be settled. The question to be considered in connexion with the granting of a Patent is that of *rewarding* inventive *merit*. Apart from all this if one invests money in a Patent for a trifling or frivolous invention, *no one is inconvenienced, nobody is a loser but himself*.

Postscriptum. The idea of a *tribunal* and *judge* in connexion with the granting of a Patent is opposed to the British constitution, inasmuch as in that constitution there is nothing analogous to it. The exclusion of trifling and frivolous Patents is *unquestionably desirable*; the difficulty is, how to effect it

satisfactorily? Finally, many of the other improvements suggested herein will certainly reduce the number of objectionable Patents.

By Messrs. JAMES RICHARDSON & Co.

Under a judicious system which shall assign a limit to the remuneration of each separate patentee according to a just appreciation of his invention, trifling and frivolous inventions might be tolerated. We would recommend, however, one condition; that in all cases the expense of proving the novelty and appraising the value, should be borne by the patentee.

By EBENEZER HENRY, Esq.

Yes.

By JOHN FINLAY, Esq.

Yes; if trifling or frivolous, but not if improvements.

By JOHN RONALD, Esq.

I think such should be at once refused.

By A. M. PATTISON, Esq.

Most certainly.

By THOMAS WINGATE & Co.

We do not think Patents should be granted for modifications of other people's Patents, these modifications being generally got up to evade the original Patent right.

By Messrs. MITCHELL and WHYTLAW, to Questions 2, 3, 4, and 5.

We think it would be an improvement if a constituted body had the power, before a Patent could be taken out, of deciding whether the proposed Patent was too trifling and frivolous, and also might give public notice when a Patent was applied for, so that interested parties might object if they thought the proposed Patent was a piratical infringement; but this latter inquiry need not be final. Such a court to be in the larger towns. This preliminary investigation would be useful in a not uncommon case at present, viz., when a party has a Patent, for another party to set themselves about exactly how to avoid said Patent, it may be by some trifling change in the arrangement, and then apply for a Patent of their own, which is granted, and then the first party, to obtain redress, must take the risk, it may be, of an expensive law plea. The fact that advice is taken from a Patent agent, who has an interest in encouraging every one to take out a Patent, is a great cause of the multiplicity of Patents.

By Messrs. WALTER MACFARLANE & Co.

No. The most learned and intelligent may think it trifling and frivolous, and yet the invention may produce great results.

Answers to Question 6.

By W. J. MACQUORN RANKINE, Esq.

Yes.

By EDMUND HUNT, Esq.

If other proposed improvements are carried out, greater facilities for repealing invalid Patents will not be required.

By Messrs. JAMES RICHARDSON & Co.

The sooner invalid Patents are cleared off the better. There should be no expense thrown on the patentee in effecting the riddance, but on the contrary, a part of the original expense might be repaid as an encouragement to every man to act justly or liberally in terminating doubtful or valuable Patents.

By EBENEZER HENRY, Esq.

Yes.

By JOHN FINLAY, Esq.

A court such as above, if shown cause, should have power to annul Patents.

By JOHN RONALD, Esq.

Any Patent which is of no use, or has not been carried into use, should be repealed within a short time after being granted, so as not to perplex other inventors.

By A. M. PATTISON, Esq.

Every possible facility should be given.

By Messrs. THOMAS WINGATE & Co.

Yes.

By Messrs. MITCHELL and WHYTLAW.

No.

By Messrs. WALTER MACFARLANE & Co.

We are not aware of greater facilities being required.

By the INSTITUTION of ENGINEERS in SCOTLAND to Questions 4, 5, and 6.

To the fourth question, the general reply was, "Yes;" to the fifth, "No;" and to the sixth, "Yes."

Answers to Question 7.

By W. J. MACQUORN RANKINE, Esq.

The question is in a great measure a legal one, which I am not prepared to answer fully.

By EDMUND HUNT, Esq.

In my opinion Patent cases should be tried by special juries, selected with a view to the jurors' thorough acquaintance with the branch of manufacture to which each Patent relates. The evils likely to arise from trade prejudices would be far from outweighing the advantages over the present system.

By EBENEZER HENRY, Esq.

Yes.

By JOHN FINLAY, Esq.

Yes.

By JOHN RONALD, Esq.

It should be simple and inexpensive.

By A. M. PATTISON, Esq.

Men of public reputation in each department of science would form the best tribunal to try the actions instituted by patentees. The actions should be brought before them with as few preliminaries as possible, so that the action may be decided at once.

By Messrs. MITCHELL and WHYTLAW.

Do not see what change could be proposed, although the present system is very bad.

By WALTER MACFARLANE & Co.

Yes; the Scottish Courts especially are tedious, expensive, vexatious, and unsatisfactory to patentees, and it would be very desirable to have a Patent Law Tribunal, or Court for the trial of Patent cases.

By the INSTITUTION of ENGINEERS in SCOTLAND.

To the seventh query a reply was generally acquiesced in to the effect that "A cheaper and more expeditious and satisfactory mode of trying Patent cases is urgently called for, and that it is desirable to secure juries better qualified than present ones to try such cases."

Answers to Question 8.

By W. J. MACQUORN RANKINE, Esq.

It might be useful to empower courts of law to compel patentees to grant licences upon good cause being shown by the applicant, provided the applicant were at the same time compelled to give security for the payment of the licence duty.

By EDMUND HUNT, Esq.

In my opinion compulsory licences are most desirable, particularly in cases where licences are wanted

to admit of the working of further improvements. A person who happens to be in possession of a paying patent is apt to obstruct further improvements in the same department. The object of the legislature should be to encourage improvements of all kinds as much as possible. It is, however, unfortunately very difficult to find a satisfactory method of making the granting of licences compulsory. I have considered several plans, and the only one which has seemed at all feasible involves, I fear, too radical a change in the system of taxes upon Patents. I would make it compulsory on every patentee to give notice at the Great Seal Office at the end of, say three years, of his charge for licences, and to prevent his making this charge so high as to be virtually a refusal. I would substitute for the present taxes of 50*l.* at the third year and 100*l.* at the seventh year, a species of patent income tax calculated on the patentees own licence charge, and upon a return required from him annually, or at other periods of the number of patent machines used by himself or his licencees (whilst if the subject of the patent is not a machine, the return should state the extent to which the invention is used in some other equivalent manner). Observe that in addition to providing for compulsory licences, this system of taxing would be more generally just than the present uniform tax for every patent, which is as much for a patent yielding 100*l.* a year as for one yielding 1,000*l.* or 10,000*l.* a year.

By Messrs. JAMES RICHARDSON & Co.

No patentee should be at liberty to refuse a licence. Where the parties cannot agree as to the rate, there should be recourse to arbitration.

It might be well to allow every person at once to use any patented invention under an obligation to immediately communicate to the Patent officials the fact that he is doing so, in order that they may record or report to the patentee if they can. Patent holders are often so indifferent or tardy or difficult to find out that such legalization may fairly be established. The onus of managing their Patents should be thrown on the patentees.

By EBENEZER HENRY, Esq.

Yes; but don't know the method.

By JOHN FINLAY, Esq.

No; the tribunal before whom the claim is made should have power to refuse or grant.

By JOHN RONALD, Esq.

When a Patent is obtained, it becomes the property of the patentee, and he should not be *compelled* to grant licences.

By A. M. PATTISON, Esq.

If Patents are only to be granted for inventions that bring forward an entirely new principle, licences ought to be made compulsory. As to how this should be done, perhaps, the best way would be for the tribunal which grants the Patent, to fix the amount to be charged, and how it was to be levied, &c., &c., subject to their revision in three, seven, and ten years. At the revisals, the public to be allowed to appear and show cause for reduction of licence rates. With the present law licences are not necessary.

By WILLIAM BROWN, Esq., to Questions 5, 6, 7, and 8.
I am not able to answer these.

By THOMAS WINGATE and Co.

Yes; we think the granting of licences should be compulsory.

By Messrs. MITCHELL & WHYTLOW.

No.

By Messrs. WALTER MACFARLANE & Co.

Certainly not; a patentee has a right to consider his invention as so much property, and should not be compelled to grant licences against his will.

By the INSTITUTION of ENGINEERS in Scotland.

To the eighth question, two replied in the negative, and ten in the affirmative; but in reference to a practical method of rendering licences compulsory, nothing was offered beyond a suggestion, that if a board was organised to decide as to utility, the same board could also decide the royalty chargeable in each case.

Answers to Question 9.

By W. J. MACQUORN RANKINE, Esq.

No; unless to the inventor's agents or assignees.

By Messrs. JAMES RICHARDSON & Co.

If Patents are granted to importers of foreign inventions it should be but for a very short period.

By EBENEZER HENRY, Esq.

No.

By JOHN FINLAY, Esq.

Yes; if manufactured in this country, but not to the exclusion of the foreign inventor, who, I think, should not be excluded from making his own invention here, or of importing the same, though already patented by some copyist.

By JOHN RONALD, Esq.

Yes; if foreigners do the same to us.

By A. M. PATTISON, Esq.

I think not.

By Messrs. THOMAS WINGATE & Co.

No.

By Messrs. MITCHELL and WHYTLOW.

Yes.

By Messrs. WALTER MACFARLANE & Co.

No.

Answers to Question 10.

By W. J. MACQUORN RANKINE, Esq.

Yes.

By EDMUND HUNT, Esq., to Questions 9 and 10.

These questions may be replied to jointly. Considering that the object of patent legislation is to encourage the practical introduction in this kingdom of all possible improvements in arts and manufactures, I think the patenting here of foreign inventions should still be allowed. A foreign invention, however, should not be patentable except in the name of the original inventor, or his nominee or assignee; for, say, one to two years after its publication abroad. After that period it should be patentable by anyone, as long, of course, as it may remain unpublished in this country.

By Messrs. JAMES RICHARDSON & Co.

If a radical reform is introduced, foreigners who are real inventors (a point difficult to prove) may safely be allowed to patent, directly or through nominees.

By EBENEZER HENRY, Esq.

No.

By JOHN FINLAY, Esq.

I think foreigners should be entitled to protect their inventions on the same terms as natives, so that they work them and make them generally available.

By JOHN RONALD, Esq.

Yes; if foreigners do the same to us.

By A. M. PATTISON, Esq.

Yes.

By WILLIAM BROWN, Esq., to Questions 9 and 10.

I think Patents ought not to be so granted.

By Messrs. THOMAS WINGATE & Co.

No.

By Messrs. MITCHELL and WHITLAW.
Yes.

By Messrs. WALTER MACFARLANE & Co.
Yes.

By the INSTITUTION of ENGINEERS in Scotland, to
Questions 9 and 10.

To the 9th Question, "No" was generally replied,
and to the 10th, "Yes."

Answers to Question 11.

By EDMUND HUNT, Esq.

I do not think that any change is called for in the
law relating to prolongations and confirmations.

By MESSRS. JAMES RICHARDSON & Co.

Patents cannot safely be prolonged beyond the
period of expiry in other countries.

However questions such as the foregoing may be
answered, the grand cure obviously is a Government
grant, or else such a shortening of the term of
monopoly, and such a limitation of the amount of
charge, that patentees may, under the present law,
make, as will render it practicable for British manu-
facturers to compete with foreigners who may be
liable to no patent charge, or charges much lower
than those exacted in this country.

Free trade and unrestricted competition render the
present system untenable, unless indeed all countries
were combined in one comprehensive system, the
very magnitude of which would render it unworkable,
and cause it to break down.

By EBENEZER HENRY, Esq.

Cannot say.

By JOHN FINLAY, Esq.

I think the present duration of a patent, 14 years,
is long enough, but would leave it in the power of
the Court when cause is shown to prolong it.

JOHN RONALD, Esq.

I would give no prolongation after the time fixed
in the Patent.

By A. M. PATTISON, Esq.

I think not.

By WALTER MACFARLANE & Co.

Cannot give an opinion as to this.

By the INSTITUTION of ENGINEERS in SCOTLAND.

The 11th query may be subdivided into two. As
to A., it was generally considered that the law as to
prolongations should remain as at present, one member,
however, thinking that prolongations should be done
away with, and the duration of a Patent be altered
from 14 to 17 or 21 years. As to B., it was gene-
rally held that "confirmations" should be done away
with.

Answers to Question 12.

By W. J. MACQUORN RANKINE, Esq., to Questions
11 and 12.

These questions are chiefly legal, and I am not pre-
pared to answer them fully.

By EDMUND HUNT, Esq.

I think patentees should be allowed to enter dis-
claimers and memoranda of alteration without the
troublesome and expensive proceedings at present
required to obtain the law officer's fiat. Of course
as at present a patentee must not be allowed in any
way to extend his Patent, and his disclaimer or me-
morandum must contain his declaration, as at present,
that it is not to be construed as extending the Patent.
Any new Act should also contain a clause enabling
a patentee in his final specification to disclaim, not
only matter in his provisional specification filed six
months previously, but also a portion of the title.

It would also be of great advantage in many ways
for a patentee to be allowed to include in his final

specification improvements occurring to him during
the six months, provided they are such as might
properly have been included in the same provisional
specification and provided he distinguishes those im-
provements in his final specification from the others.

The claims for these added improvements should
be held valid or invalid on the ground of novelty or
the want of it, with reference to the date of the
final specification instead of the date of the pro-
visional specification.

In conclusion I would observe that none of the
queries bears on one important point—the unauthor-
ised use of the word "PATENT." There is at present
no law against the use of this word, whilst penalties
can be enforced against the marks or word "Regis-
tered" applied to registered designs. Patent property
would generally assume a much higher position than
it now has if it were made illegal to use the word
without a patent. It should be enacted that wher-
ever used it must be accompanied by the date and
number of the Patent or Patents referred to, and its
unauthorised use should be made to incur a heavy
penalty.

By EBENEZER HENRY, Esq.

Do not know.

By JOHN FINLAY, Esq.

When any weak point or points are shown in a
Patent which does not affect the originality, I think
the power of disclaiming such parts, a very useful
one.

By JOHN RONALD, Esq.

I would let the Patent stand or fall according to
the first specification.

By A. M. PATTISON, Esq.

No. My daily experience leads me more and more
to the conviction that there should be no Patent laws,
the poor man would make much more on the average
by selling his invention as a secret, and the wealthy
inventor could keep his secret long enough to give
him a decided lead in the market with it. Very
many commercial firms think it no moral wrong to
invade Patents considering them unjust monopolies;
others who abide by the laws are placed at a dis-
advantage; also patentees have great difficulty in
getting sufficient proof of infringement to enforce
their rights by law, often it can only be got by
bribing the workmen of the factory where the in-
fringement is going on. As to the opinion that there
would be few inventions if there were no Patents,
it cannot bear investigation, competition in business
is too great for that to happen, and science is making
too rapid strides.

By WILLIAM BROWN, Esq., to Questions 11 and 12.

I have no remarks.

If I am permitted to make some general remarks,
I should say on the whole subject I am of opinion
that the abrogation of the Patent laws might be for
the advantage of all parties, provided there was a
tribunal for judging of important inventions in *me-
chanics* and in those matters which may be imitated
whenever they are seen, and for awarding suitable
premiums for the publication of such invention.
But that the inventions of new and important *pro-
cesses* for the manufacture of chemical and other
products which can be kept secret should be left to
sell their products and processes to the best advan-
tage in any way they choose. Patents for processes
are pirated right and left, without almost the possi-
bility of detection, and that avowedly, and by exten-
sive and wealthy manufacturers.

Thus, I was with a friend who had just secured a
Patent for an improved process in dyeing. We were
at Leeds, trying to get it brought into use. One of
the most extensive dyers said, "I will wait till I see
thy specification, and if there is anything in it I
think will be of service to me, I will adopt it, and
never ask thy leave."

On the other hand, a manufacturer discovers some simple improvement in his mode of working, and adopts it secretly, but without taking a Patent for it. A stranger finds out what it is, secures a Patent, and then demands of the first inventor either to cease from using it, or take a license from him. I have known an instance of this and no redress.

I have no fear that the talent, energy, and capital of this country will suffice to enable its manufacturers to keep their ground, and that the competition between one manufacturer and another will so keep down prices as to protect the interests of the public.

If the whole annual profits made by means of Patents could be ascertained and compared with the annual sum expended in acquiring and defending Patent rights I think it would be found that the Patent Laws instead of being a source of gain are the cause of a heavy loss to the community.

By Messrs. MITCHELL and WHYTELOW to Questions 11 and 12.

Not prepared with any opinion.

By Messrs. WALTER MACFARLANE & Co.

An appeal should be allowed to the Lord Chancellor or Privy Council. We think Patent rights should be conferred for not less than 21 years.

By the INSTITUTION of ENGINEERS in SCOTLAND.

A general reply was given to the effect that "the expenses connected with disclaimers and memoranda of alterations should be reduced."

ANSWERS by the PHILOSOPHICAL SOCIETY of GLASGOW to the QUERIES issued by the CHAMBER of COMMERCE of GLASGOW.

DEAR SIR, Glasgow, Feb. 11, 1864.

REFERRING to the circular forwarded by the President of the Chamber of Commerce to the Philosophical Society, dated 29th January 1863, I am directed to inform you that a Committee was nominated to report on the questions proposed by the Royal Commissioners appointed to inquire into the operation of the Patent Laws, but from various causes were unable to give in their report before the Session closed in April last. The subject was again brought up when the Philosophical Society resumed its sittings in November, but no opportunity

has occurred of discussing it until last night. The society fear that any opinions expressed by them may now be too late to influence the report of the Commissioners,—nevertheless I am requested to hand you a copy of the answers adopted by the society, which you can make use of, or not, as you deem proper.

(Signed) WM. COCKEY,
for the Secretary of the Glasgow
Philosophical Society.

1. There do not appear to be sufficient reasons for materially altering the preliminary cost of obtaining Letters Patent; but we think that the sum of 50*l.* now payable at the end of the third year, should not be exacted until the end of the fifth year, and that no further payment should be required.

2. The present system of obtaining Patents is undoubtedly not satisfactory. We are of opinion that there should be a preliminary investigation as to novelty, the result of such investigation being made public, but not to be absolutely final.

3. Our reply to the last question disposes of this one, except as regards opposition, with respect to which we think that the facilities at present granted to intending opponents have been so little taken advantage of that it is doubtful if increased facilities are necessary.

4. Yes.

5. Yes. If any practicable method can be found for deciding on what are frivolous inventions.

6. Yes. To the extent of reducing the costs of proceedings for obtaining under repeal.

7. We are of opinion that the juries appointed to try Patent cases should be composed exclusively of scientific and practical men conversant with the subjects in dispute.

8. We do not see our way to suggest any practicable system of compulsory licences, but we think such a system would be very desirable if a suitable one could be found.

9, 10. The following answer applies to both the above queries. We think that Patents should still be granted for foreign inventions, but that care should be taken to insure the granting of the privilege strictly to the original inventor, or to parties properly deriving their rights from him.

11, 12. To both the above queries we can simply reply that something might probably be done to lessen the cost of proceedings.

ANSWERS by E. A. COWPER, Esq.

35a, Great George Street, Westminster, S.W.,
4th June 1864.

MY LORD AND GENTLEMEN,

I FEEL that some apology is due from me in consequence of my not having immediately responded to your invitation to send in such evidence as I felt I could give, on the working of the present Patent Laws, and in answer to the printed questions I had the honour to receive from you. I beg therefore now, before the first sitting of your honourable Commission this session, to submit my answers, together with one or two practical suggestions that have forced themselves upon me in the course of my professional practice as a Consulting Engineer.

I conceive it to be altogether unnecessary to take up any time with evidence in reference to the very great use of Patent Laws generally, as it is acknowledged by every class in the nation, including manufacturers, inventors, and the public at large, that the operation of such Laws act as a great stimulus on all persons of an inventive turn of mind in causing them not only to direct their thoughts to new applications of the Laws of Nature, but in leading them to spend their time and money in bringing to bear in a *practicable manner* any crude idea or thought that strikes them, and thus the manufactures of the country are constantly improved, and the public reap the advantage of a constant progress in the industry of the country; indeed, in view of the progress that is now being made by other countries (and which is far

greater than meets the eye or is commonly known) it would be perfectly suicidal to cause the least check or discouragement to the practical application of the inventive talent of this country.

The amount of perseverance, exertion, expenditure of time and money that is always going on in *attempts* to improve manufactures (none of which meets the public eye or is known to other than those actually engaged or consulted on such matters) is almost incredible, but no grumbling or dissatisfaction is expressed by the parties, as they feel they have not been set to do such work by any taskmaster (and in fact no taskmaster however despotic ever *could make men work as they do now*), but have simply been pushing or backing their own ideas, which they of course thought were correct.

Invention can be encouraged, but cannot be driven, and as a simple proof may be mentioned, the well-known fact that the first Napoleon having ordered his eminent chemists to find out a cheap way of making saltpetre, and having kept them closely engaged on their task for a length of time, received at their hands simply the invention of making soda from common salt, which is no doubt a highly useful invention, but not the one that was to have been schemed to order.

The present Patent Law of 1852 has worked remarkably well on the whole, and were the Act fully carried out (which it most certainly is not at present) most of the complaints now made (some of which are

of the most frivolous character, and are urged only by persons entirely ignorant of the working of the Patent Laws) would cease altogether, and a more wholesome state of things would ensue.

The great resources of the various textile manufactures of the country have been very fully brought out during the recent cotton famine, and rather than run any risk of causing a check to the rapid strides that are now being made in improving all manufactures, it would be far better, simply to put the *present Patent Laws into full operation*, as it would then be possible for any inventor, or person supposing himself to be an inventor, to go to the Free Library and sit down for about half a day's careful study, and by means of the indices, abridgments, books of reference, catalogues, and lists that would then be found there, at once satisfy himself that in all human probability his invention was old or new, as the case might be. The Patent Law Amendment Act of 1852, Section 4, enacts that there shall be built "proper places" or buildings for an office or offices for the purposes "of this Act," and it is difficult to conceive any valid reason for such part of the Act as relates to the buildings remaining a dead letter to this day. Of course the first point that it is necessary to settle is that of site, but I believe a good site could be as easily obtained by Her Majesty's Board of Works as it is by any large company, whether a railway company or such an one as the Westminster Palace Hotel Company, for with money in hand there is never much difficulty in obtaining land, even in London. I am of opinion that any good site of sufficient size, say of 7,500 square yards at least, between Westminster and the Temple, would answer the purpose, and therefore the Fife House site, Whitehall, would do very well, though I believe there would be some advantage in the new offices being nearer the Record Office, where all the old original parchment Specifications are deposited. The main point to be considered in fixing upon a good site is, that it should be as central as possible, for those persons who have to use it are all business men and not amateurs.

I have very fully examined the question of site, and considering that all persons who have occasion to go to the Patent Office Library or Museum are business men whose time is valuable, and not simply idle persons with time on their hands, I am quite sure that nothing could be more fatal to the usefulness of either of the three departments of the Patent Office than their removal to Kensington; indeed, no one whose time was of the least value would waste it by going there and back, if he could possibly avoid it by any means; and it must be remembered that there is hardly a single manufacturer in that neighbourhood, and no merchants, engineers, chemists, or mechanics; indeed, the East, North, and the South of London are almost exclusively the business parts, and contain all the residents who have any occasion to examine works or models at the Patent Office; even the railway stations are without exception nearer to Whitehall Place than to Kensington, and there are no hotels at Kensington where a person from the country could stop; this of itself proves there is no business transacted in that neighbourhood.

Indeed I believe an acre in London would be infinitely to be preferred for a site to five acres at Kensington; in fact, Kensington would not answer the conditions of the Patent Law Amendment Act of 1852, as offices for business could in no sense be called "proper offices" if located miles away from all business.

I am clearly of opinion that a great deal more must be done to make the Patent Offices more complete before it can be said that "proper places or buildings" for an office or offices for the purposes of the Act have been provided as the Act of 1852 directs.

I estimate that from 7,500 square yards to 8,000 square yards are required for the Patent Offices, including the Free Library, Reading Room, and Museum, though no doubt some years hence additional space would be required for the Museum if

that department were properly administered; but 8,000 square yards would do very well for some years to come. Of this space about 3,500 square yards would be required for the offices, and the rest, or 4,000 to 4,500, for the Museum. I am further of opinion that unless immediate measures are taken to improve the whole working of the Office great injury to our manufacturers will occur from the competition which is carried on so assiduously by continental nations.

I mean in the technical education of manufacturers and artisans; and I would first of all call attention to the well known fact that some 40 to 60 years ago England was almost the exclusive mart for all machinery, whether cotton or flax, sugar mill, steam engine, &c., or even for crude pig iron, and as recently as 30 years ago printing machinery, and still later (*viz.*, scarcely 10 years ago) locomotives were all exported from England to France, Germany, &c.; but now other countries, particularly France, Germany, and the United States, have taken in hand the collection and publication of inventions of all kinds, gathered to a great extent from this and other countries; we may find there better printed engravings and descriptions of machines and processes used in *this country* than can be met with at home. I may notice that the fear of our being outstripped in some branches of mechanical manufacture is therefore not altogether so imaginary as might at first sight be supposed, and we have only to turn to Switzerland to see for what a very small sum they make the works of a watch, or to remember that 200 or 300 years ago, when civil engineering was to be done here, it was not unusual to send for Dutchmen, Frenchmen, or Italians to design the works.

I firmly believe that by a slight extension of the present organization of the Patent Office, and by a judicious expenditure of the surplus funds (which have been contributed by the "*very persons*" who now require the proposed instruction), there may be greater and more rapid strides made in the improvement of our manufactures than there have been within the last few years in the applications of Fine Art to manufactures capable of embellishment or of exhibiting beauty of form. It is true that the Schools of Design have done something by *actual instruction* of pupils, but without the good *models and specimens* that were diffused throughout all the leading cities and towns in this country it would have been impossible to develop such good taste as we often now meet with in our manufactures; but with regard to mechanical processes, modes of working and contrivances in machinery, they require *no such tuition* as art necessitates, but can be at once *seen and appreciated* by any person of common intelligence in the particular trade, as soon as a good *model* or a drawing and Specification or description is before him; and I have no hesitation in saying that if every manufacturer in this country had *clearly put before him*, by models and otherwise, the *very best known mode of working*, in his own particular trade, in 99 cases out of a 100 he need not fear competition from any foreign country, but would be in the *very best possible position*. The immense advantage to the nation generally, from our manufacturers being put in such an advanced and commanding position could hardly be overrated, and would tell effectually in all directions, in some trades in an improvement in the quality or usefulness of the finished article, in some in a reduction of cost of making, and consequently of the price paid by the public, in others in a reduction of the cost of the raw material, and in all in an increased employment of our people.

I would submit that "proper places or buildings" for an office or offices for the *purposes* of the Act most certainly includes all reasonable means of making known and *disseminating the knowledge of inventions amongst our people*, and if any confirmation of this view could possibly be required by any person conversant with the general nature of manufactures and their improvements, it would at once be

furnished by the high authority of some of our most distinguished Lord Chancellors, Solicitors, and Attorneys-General, and the learned Master of the Rolls, together with the very able Superintendent of Specifications, and most of the witnesses examined before the Honourable Committee of this House in 1851, all of whom have sanctioned in a decided manner the printing of all Specifications and the preparation and printing of books of Abridgments of Specifications and the publication of the whole at cost price to the public, besides the gratuitous distribution of a complete set to every large city and town in the country where such books may be examined gratis, the formation of a scientific library of the most complete character, to include *all* foreign scientific books and periodicals, such library to be a free library, open to the public under proper regulations, and the establishment of a public reading room where such a valuable mass of knowledge might be made available, together with a large and complete museum of *models of all* the best and most important inventions, like the "Conservatoire des Arts et des Métiers," at Paris. It cannot be denied that the use of good models properly designed for instruction (and not as showy advertisements) is a means of quickly reaching the intellect of most people, and indeed there are many persons (amongst whom are most artisans) who *cannot* comprehend at all a new machine without a model, or the thing itself before them, and in fact I have known barristers of the highest standing who would hardly read a Specification in a Patent case until they had seen a good model of the invention in dispute.

It is a fact that should not for a moment be lost sight of, that succeeding Commissioners of Patents, fully alive to the *great want* that has existed of a good and complete office for some years, and which is now becoming a *most pressing necessity*, have from time to time *reported* to the Lords Commissioners of Her Majesty's Treasury *this necessity*.

In April 1855 the Commissioners of Patents stated that "a largely increased accommodation was *urgently required*," and requested the Lords Commissioners of Her Majesty's Treasury "to sanction the application of a sufficient portion of the *surplus* now derived from the *fees paid on Patents* for the purpose of accomplishing the objects above-mentioned, &c., &c." This report was sent by their Lordships "immediately to Her Majesty's Board of Works, with instructions that a convenient site should be provided for the proposed *New Offices, Public Library, and Museum*, and also that plans and estimates should be prepared for Parliament."

"In 1859 the Lords Commissioners of Her Majesty's Treasury and the Chief Commissioner of Her Majesty's Board of Works, approved of a site for this purpose, lying at the northern extremity of the gardens at Burlington House."

Plans and estimates were prepared by Messrs. Banks and Barry, so that these buildings should form a part of one complete design of the public buildings intended there; but unfortunately this plan has, for the last five years, been put aside, and no other site has been provided. And the last report on this subject that I am acquainted with, viz., that of 7th August 1862, pointed out the lamentable inconveniences that existed in the Patent Office at that time, and described them in the very words of the memorial that was presented to the Commissioners in reference to the building of a proper office for the purposes of the Act, and for the rescinding of an order that it was understood had been given out, for the *discontinuance* of the reception of certain scientific *periodicals*, *because there was not room for them in the Office*.

It was felt at that time by all scientific men or manufacturers, who became aware of this uncalled for injury that was about to be inflicted on the completeness of the library, that such a matter ought at once to be taken notice of, and in two or three days some 46 gentlemen sent in a remonstrance against the pro-

posed curtailment of the library "for want of room," knowing as they did, that there was an enormous accumulation of funds available for the purpose, and which could not be considered as a surplus applicable to any other object, until all the requirements of the Office established for the purposes of promoting invention had been satisfied.

It has never been suggested, and most certainly has not been intended by this Honourable House to lay a tax on inventors, or in any way to discourage them in the improvement of our manufactures. On the contrary, it has always been held to be sound policy to stimulate improvement as much as possible; and indeed this is the one grand object of the Patent Laws, coupled with the advantage of obtaining a good record of every new plan; it is, therefore, *self-evident* that (to use the words of the Commissioners) "a sufficient portion of the surplus now derived from the fees paid on Patents" should be devoted to providing the very best and most complete record of all inventions and processes known in the world, together with the most copious indices, catalogues, and references to the whole, with translations of foreign inventions and abridgments of all the most useful and important inventions, and good models of all machines in use, whether patented or not, in a museum under the same roof as the other Patent Offices; for it is only by having the books and the *models together* that reference can be conveniently made for the *descriptions of the models*.

I may perhaps mention that I found at the "Conservatoire des Arts et des Métiers," in Paris, a good model of the very earliest locomotive known; the engine itself, which I afterwards saw, was made by a man of the name of Nicholas Joseph Cugnot, born at Void, in Lorraine, on 26th February 1729, and died in Paris in 1804; the first engine was made in 1769 and a second in 1770. This man's invention has hitherto been overlooked in all histories of the locomotive engine, and had not the museum brought it to light, might never have been known.

The Commissioners of Patents having pointed out in detail some of the evils that existed both in the *Patent Office, Library, and Museum*, and after stating that the accumulated surplus income amounted at that time to 129,000*l.*, and that the annual surplus was estimated at 40,000*l.* for 1862, concluded their report in the following words:—

"The Commissioners of Patents, therefore, earnestly request that your Lordships will be pleased to sanction the appropriation of the site (Fife House, Whitehall, belonging to the Woods and Forests, the lease of which has just expired) proposed by them for the Patent Office buildings; that your Lordships will be pleased to give the necessary directions to Her Majesty's Board of Works to obtain the proposed site, either by purchase or by a lease from the Crown, and to direct the architects to prepare the necessary plans, elevations, and estimates; further that your Lordships will be pleased to direct such plans, elevations, and estimates to be laid before Parliament at the commencement of the ensuing session; and to apply for a vote for such proportion of the estimated cost of the buildings as may be required for the year 1863–4; and, should it be decided to purchase the land for the site, also to apply to Parliament for the sum of money necessary for that purpose, all such monies to be repaid out of the surplus income for the current and succeeding years."

The accumulated surplus fees now amount to the enormous sum of 240,000*l.*, and the surplus income for this year is estimated at 59,000*l.* more.

Now I will take the case of a person who thinks he has made an invention, but who wishes to satisfy himself as to its novelty; now there is no one *place* where he can ascertain this fact; he may search in books, but is very likely to miss the right one, even if he can command access to a good library, and the amount of time that would be consumed in examining book after book would be enormous; again, he may go to the Patent Office Free Library and examine

the Specifications of English Patents, which being to some extent arranged according to the *subject matter*, are *easier* to look through than most books, though they require to be much *divided* and *sub-divided* under different subjects and branches of subjects before they can be looked through with sufficient certainty or celerity; but after all this searching through 49,921 inventions (of which only 10,043 were still in force at the end of 1863) there still remains the large field of unpatented inventions, processes, and ordinary every day modes of working which are entirely unregistered, except so far as they are described in books on trades and manufactures.

Now I would suggest that, in addition to the Indices of Specifications, there should be prepared in like manner every year General Indices of *all inventions*, processes, and modes of working *known at the time*, including, of course, the Specifications in these, so that so far as possible these General Indices should fully inform the person inquiring *where he would find*, first, the general subject he wanted; secondly, the references to the particular branch of that subject; and thirdly all descriptions, models, and specifications of the details of the particular branch he was in search of. I will give an instance. Suppose the person thought he had invented some improvements in the detail of fermenting ale, he would look in the *Subject Matter* Index for "Brewing," and under this *head* would find perhaps *twenty branches*, such as Mash Tuns, Extracts of Hops, Cooling, Refrigerating, Crushing Malt, Brewing Coppers, Fermenting, &c., &c.; then under "Fermenting" he would find Reduction of Temperature "Squares," Rounds, Parachutes, Tuns, Cleansing Beer, &c., &c., and under Cleansing Beer he would find "Burton System," Improvements in ditto, and would find possibly in Model or Description the actual thing that would prevent a costly law-suit, besides the expense of a Patent and the waste of his own time.

Although it is now 12 years since the passing of the Patent Law Amendment Act, I may mention, as an example of the great need of a large increase of the staff of officers, that so important a subject as the classification of steam engines has never yet been completed, and masses of most valuable information are at present lying useless in the Offices for the same reason.

At present it is quite impossible to tell whether a French invention, for instance, one which has been patented in France some time before it has been patented in England, is a valid Patent in this country, because it might have been published in this country by a book with a description of the Invention having been imported, before the English Patent was granted; this evil ought to be cured by copies of the French specification being sent over here *at once*, and lodged in the Patent Office to be considered as an official publication and vice versa, and the same with America.

I would also suggest that, as far as possible, the descriptions of all known processes should be collected by direct application to the Manufacturers (as is now so often done when a person is going to write a book on manufactures, such, for instance, as Tomlinson's Cyclopædia) and by allowing any manufacturer, on payment of a small fee, to send in a description of any mode of working that he wished to be left at full liberty to continue to follow, so that it should simply be recorded and printed as an official publication, without giving the manufacturer any rights whatever, but absolutely preventing anyone else afterwards taking a Patent for the plan. Of course it would be necessary to properly examine these descriptions of inventions or plans to see that they were really worth recording, but there is no doubt but that a very large number of inventions would thus be drawn forth and become of great general use which would otherwise probably never be known. As one example I will name the Suspension wheel, which had been made and used on a hand-truck (and thus become known to a few people) a long time before the patentee took out a Patent

for it; in this case a most useful invention lay idle for a long time simply because the plan was not published.

I may mention as an example of the great need there is for "proper buildings for an Office or Offices" for the purposes of the Act that there exists such a want of a comprehensive and intelligent arrangement of matters appertaining to Patents that:—

If it is necessary to refer to the original Specification of an old Patent, one has to go to the "Record Office," but it is of no use whatever there to give the name of the patentee, or the date, or the number of the Patent, as the only reply one can get there is the question as to "what roll it is in;" this of course naturally sends the applicant back to the Patent Office, and there perhaps he may learn from one of the officers (who are always most courteous, and do all in their power to assist the public) that they have no index to the Rolls at the "Record Office," but that he had better go to the old "Enrolment Office" up Chancery Lane and see the "Register" there, and this the applicant must do, and there he will find, on giving the name and date of the Patent, the number of the roll at the "Record Office" which ought to contain the Patent, and should the applicant be curious enough to ask why he should be thus driven about from office to office, he will be told with a smile that when the Act was passed enacting that all the old Rolls of Specifications should be lodged in the "Record Office," it said nothing about the "Registers," and so they are retained at the "Enrolment Office," and the officers at the "Record Office" will neither copy the "Registers" so as to be able to let a person see what he asks for, nor will they attach the proper number of the Patent (*i.e.*, the Patent Office number which appears on every copy that is sold) to the entry of the Patent in their Indices of Rolls, and the Patent Office has not officers enough to send to the "Enrolment Office" and copy the "Registers" there, nor to the "Record Office" to copy their Indices.

Supposing such improvements to be made, our manufacturers would be placed in the very vanguard of progress, in fact on the boundary line between old and new, or that which was already accomplished and that which yet remained in front tempting their advance and conquest.

It will be seen, I have assumed, that an inventor would himself not only wish to know whether his invention were new or old, but that if proper facilities were afforded him, as they ought to be, (seeing that the law assumes that he is acquainted with all previous inventions,) he would of himself take the trouble to examine as to its novelty before he incurred the expense of a Patent; but unfortunately it sometimes happens that inasmuch as a thorough search would cost much more than a Patent, a supposed inventor will not take the trouble to search, and in some cases would even rather shut his eyes to anything that came at all near his plan and was before him in date. Now I would propose that no such wilful blindness should be allowed to pass unchallenged, but that the public should be protected at the cost of the inventor or supposed inventor, by the appointment of examiners, who should examine every Specification to see first, by reference to the complete and perfect Indices I have before alluded to, whether the invention were new, and supposing it were found to be decidedly old, the so-called inventor's attention should be called to the reference, and if he still insisted on taking out a Patent, it should be endorsed with the reference to the old thing, and no printed copy should appear without such reference. Secondly, the examiners should peruse the Specification thoroughly to see if the object of the invention is clearly pointed out, the *advantages* to be obtained by it are stated fully, if the distinction between the *old* and *new* parts is drawn, the *principle* of action is mentioned, the *means* of carrying it out expressly specified, and the claims very positively put as to everything or every

combination claimed, so that no question hereafter shall arise in such Specification as to any "variegated combinations" (as they have sometimes been called). I would propose not to lower the cost of a Patent to the inventor, but to let the examiners be paid out of the present fees, which are more than ample for all the improvements that are required in reference to Patents.

I would further require the services of such examiners to assist in several other duties besides those of aiding in the preparation of the abridgments, abstracts, &c.

I would submit that as the business of the ordinary Courts of Law has so increased that it will probably be necessary to increase their number shortly, and as numerous objections are generally found to trying a Patent case when it is really ready for trial, it would be best at once to form a Patent Court for the exclusive trial of all matters appertaining to Patents. Indeed it has been found indispensable to form a Divorce Court for the trial of a special class of cases, and, again, it is found necessary to call in the assistance of the Elder Brethren of the Trinity House to give their judgment on a totally distinct class of cases, relating to shipping matters; and now there is no doubt but that great benefit would accrue from the appointment of Judges having a general technical knowledge of inventions and machinery generally, and conversant with the applied sciences; three such judges would constitute an excellent court of appeal or reference, and no appeal whatever to the House of Lords need then be resorted to. Indeed the endless appeals that it is now possible to keep up for a series of three, four, and five years renders it utterly impossible for a man of moderate means to defend his Patent, or defend himself if attacked vigorously by a rich patentee; indeed an occasional injustice, done to a patentee or an infringer (for want of a number of appeals) would be infinitely preferable to the present practice.

The examiners before named should always assist the Judge.

If the present system so long as prolongation of Patents is concerned be retained, I think the application should be made to the full Court of the Patent Office assisted by the examiners, but I am decidedly of opinion that it would be best to grant Patents for 21 years certain, subject to the present payment and to another payment of 100*l.* at the end of the fourteenth year, and also subject to a revised Specification being sent in at the end of the seventh and fourteenth years, giving all the latest improvements upon the invention, full details of the mode of working, amounting almost to working drawings and Specification.

This plan even would *not* bring up the average lifetime of a Patent to *seven years*, for at present the average duration of the protection is only three years and a third ($3\frac{1}{3}$ years), although every invention is described and the Specification registered for the benefit of the public, so that inventions may be said to be procured by the public very cheaply indeed, for in any case theirs is all gain, as no patentee *can* take away from the public anything that before belonged to them, *i.e.*, was publicly known.

It would hardly be supposed that the Patent Office is doing for *less work* now (with a larger income) than it was during the first five years when the arrears of old Specifications, amounting to 12,977 in number, were all printed, published, and indexed. To use the words of the Commissioner of Patents, "These *valuable works* have cost in transcribing, printing, lithographic drawings, and paper upwards of 90,000*l.*"

I believe this proceeding to have been one of the most important kind and of the *utmost advantage* to the *manufactures of this country*. There is no possible reason why a similar useful expenditure of the fees paid by patentees should not now be made for the benefit of the public manufacturers and inventors generally by full, complete, and early knowledge of

all known inventions, processes, and modes of working being published. To an inventor nothing can be more instructive or interesting than the history of inventions; indeed it is often as great a *stimulus to real invention* as the hope of future emolument, to be obtained only after all the drudgery and expense of practically applying an idea has been gone through.

I beg further to submit my answers to the questions put to me in order as numbered:—

No. 1. I think it is absolutely impolitic to *tax* an inventor or put any check on inventive talent, but at the same time I believe it to be absolutely necessary to have some kind of a standard (or sieve) to separate roughly frivolous applications for Patents from those made by persons who are really in earnest, and who *bonâ fide* intend to prosecute some useful idea to a practical result; but I consider that 21 years is quite as short a time as is necessary in very many cases for an inventor to bring his invention to perfection and then get it introduced, and after that to reap his reward; and, generally speaking, the grander the invention the longer it takes to bring it into practice and obtain remuneration. Even James Watt would never have realized any profit had he not had an extension of his Patent. I would propose that 100*l.* should be paid on the fourteenth year as well as the present fees at the third and seventh years, but there should be a revised Specification sent in at the seventh and fourteenth years. The present fees yield ample funds for all the purposes of the Patent Laws, Patent Court, Museum, Library, and Reading Room.

No. 2. I would on no account let any tribunal or examiners be final as to the refusing of a Patent, for it might well happen that some of the best inventions would be refused, for true inventors are necessarily in advance of their age and may therefore well understand some matters that the examiners would not. For instance, could anything be more likely than that an absolute tribunal would have refused a Patent to a man that proposed to drive a ship with a "smoke jack," and yet one of the first inventors of the screw-propeller was a "smoke-jack" maker, and did propose it; or, still later, if a person had proposed to blow water into a high-pressure boiler by a jet of steam from a boiler at a lower pressure, is it not likely that the tribunal might have refused him a Patent, and yet the plan is quite correct in practice, as is proved every day, and the matter can be perfectly explained to any one *fully aware* of the principles which govern the flow of elastic and non-elastic fluids. I do not think the present examination is sufficient, but would recommend the appointment of several examiners, as before stated, one to investigate (as far as the case appeared to require) the novelty of the invention, to call the attention of the inventor to the old matters if they touched his, and if he persisted in having a Patent notwithstanding the plan was old, his Patent should be *endorsed with reference to the old matter*, and no copy of the Patent should appear without such indorsement. Of course there should be an appeal to one of the three Judges of the Patent Court in case the patentee demurred to the decision of the examiner, or the appeal might be to three of the examiners.

No. 3. I consider the present system of opposition and caveats of but little avail, except in cases of fraud, or suspected fraud, as, for instance, when a workman engaged in experiments for his master, who is taking out a Patent, should apply for a Patent himself with the same title; I believe, therefore, that the safeguards of "opposition" must be retained, and that they should be private.

No. 4. I am clearly of opinion that no public inconvenience is caused by a *multiplicity* of Patents, for the more that good useful inventions are introduced so much the more does the public gain. It is a very popular error that is often repeated, though it is an entire fallacy, that people are *prevented* from doing matters by a Patent that they have hitherto been *free to do*. Now no Patent *can by possibility*

take away from the public right, though it may add to the public knowledge most materially, as well as add to the public advantage at once if the patentee intends to reap any benefit by his invention; but in any case the public have the full advantage of the new thing in 14 years entirely free. If our Courts were more strict in at once, without any remorse, declaring a Patent bad, if it in any way presumed to take away from the public that freedom of action or freedom in constructing a machine which had long been in possession of the public, we should hear less of "obstructions" caused by Patents. Unfortunately it sometimes happens, from the constant immunity which such patentees have enjoyed, that they take out Patents for the most ordinary every day arrangements, whether of form or even of position only, involving no invention whatever, and containing no new principle of action, result, or advantage. Again, sometimes when a slight improvement is made, it is in fact only a common every day trade improvement, involving no invention, and is not the fit subject matter for a Patent.

No. 5. I consider it would be very difficult for any one to say how small or trifling an article should be refused a Patent, but it would not be difficult for a person conversant with the particular trade or process to say whether there were any real invention, and if there were not, I would empower the three Judges of the Patent Court to refuse the Patent on that ground.

No. 6. Yes; by some kind of cheap *scire facias* before the Patent Court, first before one Judge and on appeal before the three, or on application by both sides before the three Judges at once, for a FINAL JUDGMENT, for it has been the total uncertainty and continued appeals that have done so much harm in Patent Law.

No. 7. Yes, most certainly, for when we find Patent cases, which are ready for trial (and for which a number of expensive witnesses have been brought up from the country), put off again and again, made remanets, and at last referred, so that several years elapse before a decision is obtained (and then not from the Court, but from an Arbitrator, who sits when it is convenient to him and to some half dozen other gentlemen), we see that the plaintiff and defendant are about equally inconvenienced, and injured in their business arrangements by the delay, uncertainty, and immense expense; so that in fact after some years, the award is chiefly looked for in reference to the costs. I would beg to propose that three Judges be appointed to preside in the Patent Court, and, as far as it could possibly be managed, they should be gentlemen well acquainted with the applied sciences, and having a natural perception of mechanical construction, and know something of chemistry and manufactures generally; they should be assisted on any or all occasions by the examiners, who would be scientific and practical men, thoroughly conversant with the laws of mechanics and chemistry, and manufactures in a general way, there being probably six examiners.

The examiners would also assist in any difficult case as to an abridgment or abstract, or the proper

development of information collected by the travelling assistants.

No. 8. No, it is impossible to manage another man's business for him, there must always be so many conditions; for instance, only to mention one, the solvency or suspected solvency of the demanding licensee must be allowed to influence the patentee; but no one is so much punished as the patentee himself, if he asks too much for the use of his invention, as he gets nothing, and has to pay the cost of the Patent besides, which in such case he generally drops at the end of the third year, or seventh year, when the 50*l.* and 100*l.* fees become due. It would probably be well to encourage a patentee to value his price in his Patent, and it would be found very materially to tend to the use of his invention; he might alter it afterwards. One thing a patentee should certainly be made to do, and that is, to always keep at the Patent Office his exact address, so that any one may find him at any time, or communicate with him; for many inventions are practically shut up for want of the proper address of the inventor at the Patent Office.

No. 9. I think all Foreign inventions ought to be published here as soon as they are published abroad, simply allowing the few days required for bringing over the information and publishing it. I would print the letter-press at once, and the drawings as soon as they could possibly be engraved, for all such inventions so imported would be clearly given to the public free, without even any small profit to the Inventor, provided he had not already secured a Patent here. I would allow a person abroad who was the real inventor to take a Patent here if his authorized agent lived in this country, was named in the Patent, and had full authority to sell or grant licences to any one without waiting for instructions from abroad, for nothing is more destructive to business than an absence of the principals and delay in correspondence. I would not allow a mere importer who had no right over the invention to patent it here, and now that communication is so very quick and certain even with America, the immediate publication here (as proposed above), would nearly stop all clandestine importations, as the real inventor would himself secure the invention BEFOREHAND, if he wished for a Patent here.

No. 10. Only to their agents here absolutely authorized.

No. 11. I strongly recommend a definite prolongation of the term of a Patent to 21 years, as before stated, thus saving the Privy Council all the trouble of applications for extensions.

No. 12. I think the law for Disclaimers good, if it be properly administered, and great care be taken by the examiners that Patents are not extended by Disclaimers artfully worded, as such may easily be the case, if the person examining is not intimate with the process or machinery described. At present I am of opinion that Disclaimers are admitted too easily, and often palpably for false reasons.

I have, &c.

E. A. COWPER.

MEMORIAL of the MANUFACTURERS, CHEMISTS, MEMBERS OF PARLIAMENT, and SCIENTIFIC MEN.

London, April 1864.

To the Right Honourable Sir John Romilly,
Master of the Rolls, and Permanent Commissioner of Patents.

SIR,

ON July 22, 1862, a memorial signed by many engineers, chemists, and other scientific men was, as is probably in your recollection, presented to you, with the hope that it would be taken into consideration by the Commissioners of Patents for the purpose of remedying the matters therein complained of. The prompt and courteous attention which that memorial met at the hands of the Commissioners has induced those whose names are attached hereto to venture to

trouble them anew on matters which now, in the opinion of your present memorialists, urgently require to be amended.

In 1862 two principal requests were made in the memorial, the one that an order which had been given for the discontinuance of the supply of scientific periodicals to the library of the Patent Office might be rescinded; and the other that better accommodation for the public attending that library might be afforded.

Your then memorialists had the satisfaction of finding that on both these instances the Commissioners were disposed to accede to their requests.

Although in the former memorial attention was

more immediately called to the threatened discontinuance of the purchase of *periodical* works, the memorialists had in view the proper maintenance of the library in a complete state; and they could have had no idea that the bare letter of an order given by the Commissioners would be obeyed, and the spirit of it be entirely neglected. But this appears now to have been the case, from the fact that scarcely a single volume of any scientific work has been added to the library during the past year, so that even in those instances where the first or early volumes are there, other volumes of the series which have since been published have not been purchased.

We now beg leave to call the Commissioners' attention to the recent reduction of the staff in the library, which staff, in its present disorganized state, is utterly inadequate to satisfy the requirements of those persons seeking for information among the very numerous works contained there, so that the usefulness of the library is being sacrificed to a large extent.

Your memorialists view with alarm and regret any reduction of the staff employed at the Patent Office, as they had entertained the hope that so far from a reduction being made, there would have been an increase ordered to such an extent as would have enabled the abridgments of the Specification in the various branches of art (which abridgments were commenced about seven years ago) to have been pushed vigorously forward, so as to complete the abstracting of the whole of the original Specification, and to keep up those abstracts from year to year as new matter is furnished.

Your memorialists feel it is hardly possible to overrate the advantages to be derived by the public from a complete and intelligent system of abstracts; and they venture to urge upon the consideration of the Commissioners the necessity of at once providing a sufficient number of qualified persons, to be under the entire control of the scientific officer appointed by the Commissioners to superintend the Specifications, to assist that officer in preparing such abstracts, and also to collect and epitomize scientific information generally.

In corroboration of our views of the great importance and utility of proper abstracts of Specification, and of the collection and publication of information obtained from other sources, we may mention we are informed that in the United States of America the Commissioner of Patents, in a work having the same object, makes an annual report to Congress of the whole of the Patents taken out during the year, giving the names and residences of the inventors, and a short description of each invention, stating the claims of the patentee. Combined with this is a voluminous report by the Commissioner, assisted by a competent staff of officers, on the yearly progress of arts, manufactures, and agriculture.

So important is this work considered in the United States, that although the finances of the country are under great pressure Congress continues to vote a sum for the publication and distribution of 200,000 copies of it annually.

We might have hesitated to urge our views upon the Commissioners had the carrying out of them involved any charge upon the ordinary revenue of the country; but the Patent Office is far more than self-supporting, as is clear from the fact that its surplus fund amounts to about 250,000*l.* sterling. Your memorialists therefore trust that a portion of this large sum and of the annual surplus income (between 40,000*l.* and 50,000*l.*) may be at once devoted to the object of building a complete Patent Office, and of maintaining the full efficiency of the same.

We think it unnecessary to trouble the Commissioners with any details in reference to the present utterly inefficient state of the Patent Offices, as that state was fully recognized by them in their report to the Treasury on 7th August 1862.

Praying that the Commissioners will take this matter into their serious and immediate consideration,
We have, &c.

[Signed by 99 engineers, manufacturers, chemists, members of Parliament, and scientific men.]

REPORT of the SUB-COMMITTEE appointed at a Meeting of the General Committee of the Manchester Patent Law Reform Association held at the Town Hall, January 31st, 1862, to consider the Resolutions proposed by a Committee of the British Association for the Reform of the Patent Laws, and to report to the General Committee on the Merits of such Resolutions, and also to suggest any other Alterations in the present Laws which the said Sub-Committee may consider necessary or desirable.

After examining carefully the said resolutions of the British Association, and also considering what defects in the working of the present law require amendment, the Sub-Committee have resolved to recommend to the consideration of the General Committee the following alterations, which they are of opinion will not interfere with the rights of Inventors, and at the same time by preventing a number of useless Patents being granted will be an additional security to the public.

First.—That a Court of Commissioners or Examiners shall be appointed to consist of three members eminent for their scientific acquirements, one to be conversant with mechanical engineering, the second with chemistry, and the third a barrister or law officer with a sufficient staff of assistants, who shall devote the whole of their time to the Patent Office, and be paid liberal salaries out of the funds arising from the fees paid for Letters Patent.

Secondly.—That the said Commissioners shall grant provisional protection for Inventions on application as heretofore.

Thirdly.—That the Commissioners shall carefully examine each Invention so provisionally protected as to the novelty thereof.

Fourthly.—That the Commissioners shall, within two months from the date of the provisional protection, either authorize the grant of the Patent or inform the applicant that they have doubts about the novelty of the Invention, stating their reasons and referring him to the authorities they depend upon for

proving the want of novelty; or if necessary to require further particulars than are contained in the provisional specification, in such case the applicant shall furnish additional descriptions within one month after receiving such notice or abandon his right.

Fifthly.—That any person interested in opposing a grant of any Patent shall give notice of his objections to the Commissioners previous to the expiration of two months from the date of provisional protection.

Sixthly.—That the names of the applicants or Inventors shall not be disclosed to the Examiners.

Seventhly.—That when the Commissioners report against the novelty of any Invention the applicant shall have the privilege of asking for a re-examination, at which he shall produce either *vivâ voce* evidence before the Commissioners or give them additional particulars in writing.

Eighthly.—That the applicant shall pay reasonable fees for such a re-examination: the fees to be regulated by the Commissioners, but the scale to be higher for personal evidence than for written particulars or amended specifications.

Ninthly.—That all cases of infringement shall be tried in the first instance in any of the ordinary courts of law before a special jury of gentlemen conversant with the subject matter of dispute.

Tenthly.—That either party shall have the power of appealing against the decision of such jury to the Court of Examiners appointed to determine on the novelty of the Invention on application for the Patent, and that if this Court confirms the judgment already

given their decision shall be final, but if they differ an appeal to the Privy Council shall be allowed, but whose decision shall be final.

Eleventhly.—That if the Patentee shall find that he has claimed something in the provisional specification, which is not new or useful, he shall be allowed to disclaim the same in his final specification.

Twelfthly.—That a Patentee shall not be compelled to grant licences for the use of his Invention until after the expiration of five years from the date of his Patent.

Thirteenthly.—That the 50*l.* tax at the end of the third year be abolished, and 100*l.* be paid at the end of five years.

1. Should the cost of obtaining Letters Patent be diminished or increased, if either, to what extent, and should the payment be made in one sum or by annual or other instalments?

Cost as before in two payments only to be made within five years.

2. Does the present mode of obtaining Patents appear to you satisfactory?

Yes.

Is it your opinion that there ought to be a preliminary investigation of a more searching character than that which at present takes place? If so, how should the tribunal be constituted before which such investigation shall be conducted, and should the judgment of such tribunal be final?

No.

3. Should the investigation be *ex parte* or public, and subject to opposition? Should the present practice as to caveats be adhered to?

See No. 2. Yes.

4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?

Yes, but do not see how a better system than that suggested in first clause of Report could be devised.

5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the Inventions for which they are claimed?

No, but Inventions which have appeared in or have been suggested by public journals should not be entitled to Patent right.

6. Should greater facilities be provided for the repeal of invalid Patents?

Their renewal at the end of five years sufficient.

7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by Patentees?

Yes, at assizes before a jury of experts, with appeal to a Patent Court in London, consisting of five Commissioners, their decision to be final. (See Report.)

8. Should the granting of licences in your opinion be made compulsory, and can you suggest any practicable method by which this should be done?

Not compulsory.

9. Do you think it expedient that Patents should be granted to importers of foreign inventions?

No.

10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?

Yes.

11. Is it expedient to make any, and if so, what alterations in the law relating to prolongations and confirmations?

See No. 1.

12. Is it expedient to make any, and if so, what alteration in the law respecting Disclaimers and Memoranda of Alterations.

Yes, power should be given to disclaim or alter at a fee, the original date of specification to be retained.

HUGH THOMAS,
Secretary,
Manchester Chamber of Commerce.

ANSWERS by HARRISON BLAIR, Esq.

To the early clause of the first Question propounded by the Commissioners, I reply that, in my judgment, no reasonable complaint can be preferred against the present cost of obtaining Letters Patent from the Crown.

The applicant for a Patent incurs an outlay on his application of 35*l.*, or thereabouts. This outlay carries him forward for a period of three years. The expense of this last-mentioned document will vary according to the nature of the invention. In some instances, a description of an intricate mechanical invention may require elaborate drawings, whereby the expense becomes augmented. In other cases, the complete specification is little more than that which is found in the first, or provisional specification.

I hold, however, that to cheapen Patents is neither desired by the general public, nor would it work beneficially for inventors. When a man obtains a Patent for an insignificant discovery or trifling improvement, he not unfrequently hinders others in the same walk, who could really produce something incomparably more valuable, but who find the comparatively valueless invention offering an obstacle. Then, again, he has the entire six months wherein more leisurely to review and determine the wisdom of his further continuance of the Patent.

If it be objected that the indigent man finds himself shut out from reaping the benefits of his inventive genius, I think an answer will be found in the fact that, if it (the thing to be patented) is clearly and conclusively worth something ultra the cost of the Patent, then persons will be found perfectly ready and willing to furnish the necessary means, and make some suitable arrangement with the Patentee; and if it be not reasonably certain that the Patent is worth more than its cost, then it is little better than *dannosa hereditas*, and other inventors ought to have the ghostly monopoly (obstructing the birth and

creation of something infinitely superior) at once removed.

To the latter portion of Question 1, I am of opinion that the periods fixed for payment of the duties of 50*l.* and 100*l.* respectively are fair and reasonable.

To multiply these payments is open to this peril—that a Patentee may, by accident, neglect to make one of the payments. The Patent thereby becomes invalid, and the only cure is by resorting to Parliament, of which I had an instance in the last Session; and, with much difficulty, obtained an Act at a cost of some 600*l.* Of course in this case, had the inventor been an indigent man, the Patent would not have been revived.

Whilst incidentally bringing under notice this late case of a Patent lost by an omission, your Committee may possibly think it worth while to consider whether, in the like case, or cases *ejusdem generis*, the Lord Chancellor, Lords Justices, or one of the Law Officers of the Crown might not very properly be clothed with power to remedy such omission hereafter, either on a short memorial or other inexpensive course of procedure.

To the second Question of the Commissioners, I answer that, as a question of practice, the short petition and declaration now used by applicants seem to be an apt means as the first step for procuring a grant of Letters Patent.

To the very important question of a preliminary investigation, I respectfully submit that to the present system of indiscriminately granting all applications, very grave objections may be made and substantiated.

The daily practice of making applications for Patents is by resorting to a class known as Patent Agents.

The intended Patentee has to disclose so much of his invention as may enable the Patent Agent employed to draw a suitable title for the Patent, and

a comprehensive and partially explanatory statement of the alleged invention ; and this valuable alteration in the law has effectually precluded a Patentee from practising the fraud of taking another's invention, which it was in his power to do ere he was under the requirement of lodging some description or account of the invention in the early stages of the application.

The Patent Agent thus instructed at once and immediately prepares these two indispensable documents ; but he would deny that it in any way devolved upon him to counsel the applicant either on the novelty or the utility of the invention. Should the applicant determine to incur the expense of a general search of previous specifications, and so instruct the Patent Agent, then that search would be made with more or less diligence, and the result would be reported to the applicant ; but the Patent Agent would not hold himself in any way liable for the shortcomings of his report, and such report must, under all circumstances (as appears to me), be altogether an insufficient assurance and guarantee to the applicant that his Patent when obtained would be free from impeachment on the score of novelty.

Many cases have come under my notice where these general searches have proved valueless, and your Committee may be of opinion that as Patents multiply the worth of such searches must necessarily diminish. The further or other opportunities an intended Patentee now has will be found in the deposit of the printed specifications at some of the Mechanics' Institutions and Free Libraries ; but I think it cannot be contended that these last-mentioned opportunities have been found sufficient for the Patentee's protection.

I incline, then, very much to the opinion that a preliminary investigation would be a great boon to the inventors, and particularly to persons erroneously though steadfastly believing themselves to be original inventors, and also an indirect protection to the public. Nor can I see any insurmountable difficulty in constituting a Committee or Court of Preliminary Inquiry, but (for reasons to which I shall hereafter allude) it appears to me inexpedient that they by any judgment or decision should pronounce a Patent absolutely invulnerable.

Probably they might very conveniently determine the question of utility, and the further question of novelty, so far as regarded prior Patents which had been specified, or which had appeared in other printed publications ; but the overwhelming difficulty appears as regards prior use of the alleged invention,—for it is manifestly futile to expect that the members of this tribunal or committee could possess amongst themselves such an untold amount of information as to enable them to declare that any invention, mechanical or chemical, or of any other description, had not been in some form of fashion previously known and used. But if these gentlemen are to be armed with the power to stamp an invention as immaculate, this injustice might, and in many instances would, arise—that one or more persons who had been actually using and exercising the alleged invention (it may be in secret, if you please) are pounced upon by the Patentee, and either stopped altogether or subjected to an impost in the shape of royalty ; and it is an understood fact that many persons have such well-founded apprehensions of a litigation (the almost certain offspring of a Patent for a decided and indisputable improvement), that they apply themselves to work their discovery with closed doors,—indeed, many such cases have come under my individual ken,—and at this time I know instances where manufacturing chemists secretly, with two or three of their workpeople selected for the purpose, mix or make their chemical products, and actually themselves take part in the work, rather than divulge so much of the process as must of necessity be disclosed on any specification satisfying the requirements of the Law. They say, and with considerable force, that if you take a Patent for something that is utterly valueless, you will be left to the undisturbed enjoyment of it ;

but that if a marked improvement is attained by your invention, there will be a combination or confederacy, by fair means or foul, to deprive you of the legitimate gains of your discovery.

Such a preliminary tribunal might, as I think, be advantageously constituted of three well-selected gentlemen,—a skilled and practical mechanic ; a scientific, well-read chemist ; and a legal man, conversant with Patent Law. If, on an examination of any particular application, the tribunal should find themselves in perplexity and doubt, they should be clothed with power to resort to some other person for his aid, opinion, and advice, and the applicant should be required to pay the expense occasioned by this extra-judicial opinion.

To Question 3, I reply that the investigation should be ex-parte, and the public should have the power they now enjoy to oppose, if so minded ; nor do I think caveats are an objectionable mode of opposing.

Ignorant of what is meant by “public inconvenience,” I can give no reply to Question 4 ; but it may be observed, that many people look upon all Patents as a “public inconvenience.”

Question 5 invites the further question—Who is to be judge of whether the invention proposed to be patented is trifling and frivolous ?

The applicant does not look upon the invention as trifling and frivolous, but of more or less importance,—else he would not go for the Patent. I recollect two cases, one of which was an instance of a gentleman taking a Patent for a self-adjusting wicket, used in the game of cricket, the wicket being fastened by a short elastic band fore and aft, so that when the ball struck the wicket, the blow was indicated by the oscillation, and the apparatus quickly and immediately afterwards adjusted itself ; and the other was the case of a man taking a Patent for an improved mode of walking, which consisted simply of a spring introduced in the boot-heel. It is to be assumed, however, that neither of these applicants considered his discovery as trifling and frivolous.

To Question 6, I think the repeal of a Patent once granted by the Crown (more particularly if your proceedings result in the appointment of a preliminary investigation) should not be a light matter. I have known a Patent repealed under the present practice at an expense of about 90*l*.

To Question 7, I reply that the present mode of trying Patent rights before a jury is highly objectionable, speaking from experience. I have no hesitation in declaring that I have been concerned in several cases where it has been painfully manifest that the jury neither did, nor could, follow the evidence, and knew little more of the case when sent to them for their consideration than when they were sworn. I hold a very strong opinion that a court should be constituted for the trial of Patent causes and the repeal of Patents, with the right, it may be, for either party to ask for a jury ; and I incline to think that where a jury is empanelled, the only issues submitted to them should be whether the Patentee was the inventor, and whether the invention was new. The question of infringement is, indeed, frequently a question more for the judge than for the jury.

I well remember a case where the jury, by their verdict, pronounced a helical coil and three annular springs to be the same thing. The defendants were too poor to carry the case further, and there the matter rested. In a recent Lancashire case, in the Queen's Bench, the witnesses and attorneys travelled to London five or six times, and returned at last untried, the Lord Chief Justice declining to try the cause. I am, therefore, strongly impressed with the urgent necessity for a distinct Court ; and I believe the great majority of inventors will be thankful to witness a change.

My reply to Question 8 is, that I do not see why a Patentee should not have the right to place his own price on his invention, as the trader has on his merchandise. If he puts an excessive value on the invention, he himself smarts for it in two ways ;—first, he does not receive the benefit of the invention

to the extent he otherwise might have done; and, next, he jeopardizes his chance of obtaining an extension. Should the Committee incline to the contrary opinion, they may perhaps consider that the Patentee shall determine the rate of royalty for a third or half the period granted by the Patent, and thereafter the rate might be arbitrarily fixed for him. If such an alteration be made, then the licencees from the Patentee, in the first instance, should thereafter be placed on the same footing. Again, your Committee will remember that it is no uncommon case to grant an exclusive licence to one firm or one individual, either for the whole country or for a prescribed district.

Questions 9 and 10 appear to be almost questions of political economy.

It is assumed, throughout this series of inquiries, that the protection afforded to an inventor by the law of Patents is consistent with a wise public policy, that the monopoly granted for a time to the individual is ultimately beneficial to the nation at large, by stimulating faculties of invention which would otherwise remain dormant, and by obtaining such a registration and exact description of each single patented invention as may preclude the possibility of its lapsing into oblivion. I shall take for granted the recognition of the desirableness of such a law, and the validity of the reasons upon which it is founded.

It remains to be considered whether it is desirable to extend to foreigners that protection which is accorded to a British subject, or whether the latter, having by communication or personal observation become acquainted with an invention not previously used in this country, has a reasonable claim to a temporary monopoly of the profits of an invention which he did not discover through the exercise of his own personal ingenuity.

To come to a conclusion upon these questions, we must examine whether the reasons upon and on account of which protection is granted to the native, hold good in the case of the foreigner, and to what extent. Beyond a doubt, the stimulus to invention, in so far as it is artificial and legal, is determined mainly by its commercial advantages; so that, at the first view, it is evident that the ingenuity of the foreigner is open to the same motives and, *ceteris paribus*, in the same degree as the indigenous inventor. The registration of foreign Patents would, either in the existing state of the law or in the case that the foreigner could here obtain the exclusive use of his own invention and the advantages therefrom ensuing, be alike secured.

We are, then, left to the question as to whether it is a wise principle of legislation to decrease the advantages accruing to a foreign inventor, to protect a second-hand recipient of any particular improvement. In point of fact, under the present state of the law, we, as far as lies in our power, do positively discourage the exercise of ingenuity in foreign parts. We not only do not accord to the real inventor those advantages which he might share with other producers of the same commodities in the absence of any patent privileges, but we exclude entirely his inventions, and their products or manufactures, by the granting of a fourteen years' monopoly to a person who may have filched it from him.

The reasons which determined the granting of Patent rights to communicated inventions appear to me to be twofold. Firstly, there is an intention to give the citizen an advantage over the foreigner; and, secondly, to reward him for the trouble and research expended in gaining a knowledge of the invention in question.

I wish it to be distinctly understood that my subsequent remarks do not apply to those cases in which a voluntary communication has been made, whether for a valid consideration or not, because the foreigner has thereby, of his own free will, debarred himself from the use and sale of his own inventions and commodities at his own proper risk, and probably at his own price.

The instances to which the remarks immediately

following are revelant, are those in which the discovery by a native is due to his own travel and observation, which are considered by the law as deserving the same reward as if they had been the "fruits of his own original genius." (*Black. ii. 25.*)

According to Blackstone, the title of "invention" implies some exertion of ingenuity, and some difficulty surmounted. That such difficulties have in the case before us been enormously diminished of late years is beyond a doubt. The voyage, which formerly occupied months, is now performed in days. The rapid means of communication by rail and telegraph place the different countries of the civilized world in the same relation to one another which was formerly held by different provinces or counties in the same realm. The same circumstances which have induced facilities of communication have oiled the wheels of traffic. It is as much easier to convey goods as passengers and information, so that the invention of the foreigner is known to us with comparatively little exertion or ingenuity, and the conveyance of his products is hastened, extended, and facilitated. The obvious conclusion from these facts is, that in the present state of the law we are rewarding our fellow-citizen in at least as great degree as before for a much less expenditure of labour, while we are excluding the stranger from advantages which the difficulties and dangers of carriage did not permit to him in former years. Mechanical invention has opened to him fresh markets, from which by legislative enactments we exclude him. Suppose, as an extreme case, that we enabled him to patent an invention which would put it in his power to outstrip British competition, and that an important branch of industry might be thereby paralyzed. The consequences in such a case would be precisely the same as when such an improvement is patented by a native. Export duties levied in his own country might raise the price of the foreigner's commodity, or practically prohibit it; but as soon as the remunerative prices attained the level at which it could be profitably manufactured at home, capital would be re-diverted into the old channel, and we should produce just as much as we want. Suppose that no such legislative checks were imposed on exportation, we should have the advantage of purchasing in a cheaper market, and our capital and labour thereby set free would be employed in other more remunerative undertakings. In a word, it appears to me that the granting of Patents to foreigners is a corollary from the doctrines of free trade.

The practical difficulty that prior user or invention could only with difficulty be proved by his competitors abroad is not very serious. If it be worth his while to patent an invention, it is worth their while to resist his application for such protection. Neither need we apprehend any serious obstacle in the way of giving publicity to such applications. It would be most palpably contrary to the interest of any Government to put a check upon its home production. At any rate, the Governments which might do so are not those under which invention is rife and commerce flourishing. The machinery for publicity is not difficult, and it would be in the interest of every State to promote it as far as possible. The communication of such a privilege, and an observation of its beneficial results, would probably go far to produce a reciprocity equally advantageous to all countries.

To Question 11, I reply that in the cases of prolongation and confirmation, which I have brought before the Judicial Committee, I have been duly impressed with the keen intelligence and zealous spirit with which their Lordships have scrutinized the evidence, and placed themselves in *loco parentis* of the public.

These applications are very expensive, and if the cost could be reduced the Patentees would be much benefited. Whether the service upon others of a copy of the petition, where there has been litigation, could not be dispensed with, and a notice substituted, may be entitled to your consideration. The adver-

tisements in the London papers might be well abandoned, and a notice be posted in the Great Seal Patent Office in lieu of such advertisements.

To the last of your Questions, No. 12, I have no suggestion to make. If the Patentee claims more than his own, the excess properly vitiates the Patent; and as any alteration he makes must neither widen nor change his monopoly, the public seem to me to be amply protected.

The recent case of "*Ralston v. Smith*" is an apt illustration of the consequences to a Patentee who, finding his original invention to be untenable, shifts his ground, and vainly essays to make his Patent cover something else than the discovery in respect of which he first applied to the Crown and procured his grant. The well-spoken words of the Court of Common Pleas point out that the law will not permit a

Patentee to alter his specification so as to change an impracticable generality into a grant for a specific process. It may, perhaps, be well to enable a Patentee to abandon part of what he has taken by his provisional protection when he comes to his complete specification—his right to do that, as the law now stands, being questionable.

An apology is due to the Committee for the length of these remarks, many of which may be considered irrelevant. When I commenced them, it was my purpose to reply to the questions laconically. As I proceeded, I found that bare answers would appear given thoughtlessly, and that explanation was necessary. To save your time, however, I have directed them to be printed.

HARRISON BLAIR.

Manchester, February 1863.

REPORT of the PATENT LAW COMMITTEE appointed by the COUNCIL of the BIRMINGHAM CHAMBER OF COMMERCE, in consequence of a Commission having been issued by the Crown to "Inquire into the "working of the Law with regard to Letters Patent for Inventions."

Since their appointment your committee have had four meetings and given the subject careful consideration.

Having no knowledge of the course likely to be pursued by the Commission your committee prepared a series of questions to be submitted to the members of the Chamber and others likely to give useful information, among them to Mr. George Jabet, Mr. William Morgan, and Mr. Frederick Wills, solicitors; Mr. G. Shaw, Mr. E. J. Payne, and Mr. J. C. Cockings, Patent Agents. Three hundred and twenty nine copies of these questions have been distributed, and thirty answers received. The number of replies, though small compared with the number of questions distributed, is, your committee believe, in excess of the replies received to any other questions issued by the Council, and it is hoped that this fact may be viewed as evincing a growing interest on the part of the subscribers in the proceedings of the Chamber.

After the issue of the questions prepared by your committee, a series of questions was received from the Patent Law Commissioners. These, for the most part, correspond with those prepared by your committee, and include only one or two others, of comparatively trifling importance.

Appended to this Report is a digest of the opinions contained in twenty-nine of the replies above alluded to, the remaining one, that of Mr. Jabet, is given in full, it being considered by your committee that the very valuable suggestions contained in it will be better conveyed in Mr. Jabet's own words than in any condensation of them that would be drawn up.

The views of your committee are as follows:—

OPINIONS of the PATENT LAW COMMITTEE appointed by the COUNCIL of the BIRMINGHAM CHAMBER of COMMERCE on the Questions issued by the Patent Law Commissioners.

1. Should the cost of obtaining Letters Patent be diminished or increased, if either, to what extent, and should the payment be made in one sum, or by annual or other instalments?

Your committee are of opinion that the present fees are not so high as to prevent useful inventions from being patented. They are also unanimously in favour of the retention of the first fee at its present rate. But with reference to the second and third fees, your committee think that the question of a reduction thereof is worthy of consideration, on the ground that the total amount received in fees more than covers the expenses of the Patent Office.

2. Does the present mode of obtaining Patents appear to you satisfactory. Is it your opinion that there ought to be a preliminary investigation of a more searching character than which at present takes place. If so, how should the tribunal be constituted before which such investigation should be conducted, and should the decision of such tribunal be final?

Your committee are of opinion that it would not be desirable to appoint a board by which preliminary investigations should be made prior to the granting of a Patent, because they think that it would be impossible for such a board satisfactorily to deal with the large number of applications that would be annually brought before it. Should, however, such a tribunal be established, your committee are strongly and unanimously of opinion that it ought to be empowered to decide only upon the novelty, and not upon the importance of an invention.

3. Should the investigation be *ex parte* or public, and subject to opposition. Should the present practice as to caveats be adhered to?

Your committee understand that the present law of caveats is not in use.

4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?

No.

5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?

No.

6. Should greater facilities be provided for the repeal of invalid Patents?

Yes.

7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by patentees?

Yes; and in making the change your committee think that the following objects should be kept in view:

1. A special tribunal to decide upon the validity of Patents.

2. Facilities for summary and inexpensive proceedings against infringers.

3. A simple procedure for annulling Patents.

Your committee would also suggest for consideration the following points, but without expressing any opinion on them:

1. County court jurisdiction in certain cases.

2. The judge to have power to call to his assistance three or more scientific men; and should a special tribunal be established, where the judge is assisted by scientific men, then that the judge should also have the power of calling a jury.

8. Should the granting of licences in your opinion be made compulsory, and can you suggest any practicable method by which this should be done?

No.

9. Do you think it expedient that Patents should be granted to importers of foreign inventions?

10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?

Yes, to both these questions (Nos. 9 and 10), provided the article be manufactured in England.

11. Is it expedient to make any, and if so, what alterations in the law relating to prolongations and confirmations?

No.

12. Is it expedient to make any, and if so what alterations in the law respecting disclaimers and memoranda of alterations?

Your committee have no alterations to suggest.

Your committee desire also to express their opinion on the four following questions issued by the Council but not included in the list of the Commissioners' inquiries:—

1. Do you approve of the Patent Law as it now stands?

Your committee believe that notwithstanding the many suggestions that have been made for further improvements in the existing law, the general feeling is nevertheless that its working has been favourable to the interests both of inventors and of the public, especially when compared with the state of things under the previous law.

4. Should you prefer small annual payments as in France?
Your committee are of opinion that sufficient grounds have not been shown for an alteration of the present plan.

5. Do you approve of working models being deposited (as in America) before the Patent is sealed?
No.

8. Should a patentee retain his exclusive right to his invention if he do not use the same?
No.

(Signed) G. DIXON.
E. PEYTON.
I. CHAMBERLAIN.
J. S. WRIGHT.

DIGEST.

1. Do you approve of the Patent Law as it now stands?
To this question there are 17 replies, of which six are in the affirmative, eight negative, and three undeclared.

The approvers have for the most part contented themselves with simply indicating their opinions in favour of the existing law. This in some cases is coupled with the reservation of objections to minor points, which are given more in detail in subsequent replies.

On the negative side the grounds of objections are that Patents are granted for trivial and improper objects, and the necessity of a special tribunal for dealing with infringements and disputed Patents.

2. If not, to what do you particularly object?

Seven replies, indicating various grounds of objection, of which the following are specimens:—

The fees; want of power to abolish invalid Patents; the necessity, in cases of infringement, of a more summary redress than the ordinary action at common law.

3. Do you find the fees too high?

To this question there are 24 replies, of which 13 are affirmative, 10 negative, and one undeclared.

On the affirmative side it is urged that,—

High fees are prejudicial to inventors.

The present fees are higher than most inventors can afford.

The fees are too high for inventions of small remunerative value.

The fees should be reduced to a sum sufficient to cover necessary expenses, and paid in one sum.

The preliminary cost at the outset should be made merely nominal.

On the negative side, that,—

The first cost is not too high, but the second and third payments should be reduced.

The present cost of obtaining Letters Patent is not an obstacle when the invention is really useful.

Patents are too cheaply obtained, and are used as means of advertising.

The present fees deter adventurers from taking Patents for schemes which are piracies on real inventions.

The changes made some years since have met the objection of high fees.

In connexion with replies to this question the following suggestions occur:—

Successful Patents worked to great profit might pay something extra for the monopoly.

Reduction of the first Government charges to a sum of 15*l.*, which should insure Patent protection for seven years, then on payment of 100*l.* the term to be extended over an additional period of seven years.

Total cost of Patent for 14 years, 115*l.*

Extension of the present term of protection on which 25*l.* is paid from three to five years, substituting for the present payments of 50*l.* and 100*l.* an annual tax (say 5*l.*) or an annually increasing tax, as in Belgium, to be maintained for 14 years.

4. Should you prefer small annual payments, as in France?

The number of replies is 20, of which 10 are in the affirmative, nine negative, and one undeclared.

In the affirmative, the statements are,—

Annual payments would enable practical and generally poor men to incur the present risk and outlay.

(This reply, expressed in somewhat different terms, is given by several of the respondents.)

Annual payments, even if the sum total for the cost of a Patent remained the same as at present.

Annual payments for the first three or four years, till the Patent is established; the remainder in one sum if the Patent is continued.

Annual payment would be most advantageous to the patentee and to the public.

In the negative,—

Small annual payments would probably have the effect of leading patentees on when it would be better to abandon the Patent.

In one sense it would check parties taking out Patents for frivolous inventions.

5. Do you approve of working models being deposited (as in America) before the Patent is sealed?

To this question 21 replies have been made, of which 12 are affirmative and nine negative.

(To many of the replies in the affirmative reservations are appended.)

It is desirable to enter working models with the Specification for the sake of easy reference, not of tying the inventor to its particular form.

Working models to be deposited, but not made compulsory till the end of 12 months from the sealing of the Patent.

In the case of tools and machines, working models should be deposited to assist in defining the invention claimed.

Yes; but unless provision is made the inventor might be injured by not being allowed to deviate from his model.

Yes; if the model is not to be regarded as the ultimatum of the invention.

On the negative side it is said,—

Good drawings are sufficient for all useful purposes, and less expensive.

The deposit of models would cause unnecessary delay, and expose to greater risk of piracy.

Models should be permissive, not compulsory.

This is the only drawback on the American system, and it works better there than it would in this country, as in America application for the Patent is made only when the invention is completed.

6. Would it be an advantage to form a board which should have the power of refusing the application for a Patent on the ground (1) that a Patent had been previously granted for what was deemed a similar invention; (2) or on the ground that the invention, though new, was not of sufficient importance?

Total replies 27, of which 12 are affirmative, 11 negative, and four undeclared.

In the affirmative, the following statements are given,—

A board would be useful, but inventors should have a power of redress in the event of such board refusing a really new and valuable invention.

A local board of practical men, appointed by Government, with a paid commissioner at its head, would reduce the number of grants annually made.

Applicants (for Patents) should have a right of appeal to a jury.

A commission, composed partly of men acquainted with the Patent Law, partly of men of scientific acquirements.

A board, the powers of which should be limited to the inquiry into the novelty of the invention, but should not extend to its importance.

A board with power to refuse application for Patents interfering with everything in public use, or with Patents granted for seven years, or with existing Patents of any age.

In the negative,—

(1.) A preliminary investigation by any tribunal might subject an inventor to great injustice on account of the impracticable difficulty of constituting a proper tribunal.

(2.) Patents ought to be limited to substantially useful discoveries. Registration for short periods would afford sufficient return of profit for any invention of a "trifling or frivolous nature."

(Note.) More Patents are granted for "inchoate ideas," than for "inventions." This might be corrected by requiring an inventor to "define" his invention in a Specification to be filed on application for Letters Patent, as in France.

A registrar in the first place, with due publication of the Specification by advertisement, would be sufficient.

It would be impossible, from the number of Patents, for such a board in all cases to determine whether the invention was absolutely new.

A board would be open to charges of favouritism, the true remedy being found in increased facilities for searches, and more distinct specification.

A board would not be required if Patents were granted only for inventions involving new principles.

A satisfactory tribunal (for this purpose) could not be established.

The inventors, or at any rate the public, are the best judges on these points.

The experience of many countries shows that such a board works badly.

7. Should the granting of licences be compulsory?

To this question there are 26 replies, of which six are in the affirmative, 15 negative, and five undeclared.

The replies in the affirmative are unaccompanied by statements.

In the negative the following statements are made,—

It might be expedient to provide that the invention should be practised within a given period, or the Patent become invalid. The interests of parties will regulate the granting of licences.

We do not see on what grounds licences should be compulsory, or what tribunal could be established to determine the rate of licence.

It is a question of price, which cannot be assessed by act, and must, therefore, be assessed by a jury, which would be objectionable.

Because it would enable manufacturers, whose business was threatened by a new invention, to demand a licence to manufacture the article improperly, to the prejudice of the inventor.

Because the value of a Patent is frequently indirect, and consists in the advantages it gives the inventor in working his trade.

Because it would imply an *ad valorem* royalty, and who is to fix it?

The licence should not be compulsory, except to *bond fide* manufacturers, in the particular trade to which the Patent belongs.

If a Patent is admitted to be property, you cannot justly compel an inventor to licence its use to another.

8. Should a patentee retain his exclusive right to his invention if he do not use the same?

To this question there are 21 replies; six in the affirmative, 14 negative, and one undeclared.

In the affirmative the following are the statements made,—

Yes; because a Patent, though not actually used, is often necessary to cover a previous Patent.

Yes; because it is not the fault of the patentee that the public do not appreciate his invention, which it sometimes takes 10 years to do.

If the conditions of payment are complied with, the continuing of the Patent should rest with the inventor.

A patentee has unquestionable right to his Patent, as to any other property, whether he uses it or not.

The negative comprises the following statements,—

If a patentee does not use an invention, he ought not to debar others from so doing; but it would be very difficult to make a satisfactory law on the subject.

A Patent should be void in 12 months from the sealing, if not worked, or at any subsequent period if in abeyance for six months.

The Patent should be forfeited, if not in public use, within three years.

Not after a time, say five years.

9. Can you suggest any improvement in the mode of dealing with infringements and disputed Patents; or in the constitution of the courts and juries before which cases of infringement are tried?

The total replies are 24, of which 20 are in the affirmative, three in the negative, and one undeclared.

In connexion with the affirmative of the question, the following statements are given :—

First. As to constitution, &c. of tribunal:

The changes required in the existing law on this subject, are,—

The recognition of the absolute right of the inventor to his Patent; summary remedy against infringements; and a simple procedure for the annulling of Patents.

A board composed of practical men.

Questions of science should be referred to a board specially constituted; questions of novelty or infringement to a common jury.

A commercial tribunal.

A scientific board of three or five persons; empowered to hear evidence, examine witnesses' models and drawings, and to assess damages. Its decision to be final.

Local reference in cases of inventions of small remuneration, with right of appeal to the supreme courts.

The present processes should be made simpler in the first instance, and less expensive.

The present system is decidedly unsatisfactory. A court possessing more special information would be desirable.

Second. As to composition, &c. of juries:

Ordinary juries are incompetent.

Exports should form a part of the jury or tribunal.

Juries should be retained, but selected.

In the negative,—

No change in the tribunal is necessary; but it is desirable that considerable alterations in the *practice* should take place. The process by *scire facias* is nearly ruinous to a plaintiff by its expense.

It would be impossible for a board to work unless coupled with the further alteration in the law, that an invention or discovery not publicly used or patented within nine years immediately preceding an application for a new Patent, should be the subject of such new Patent.

10. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?

Total replies 12, of which four are affirmative, seven negative, and one neutral.

In the affirmative the statements are,—

More care is necessary that one Patent, which is a close approach to the other, should not be granted.

Yes; a trifling alteration ought not to justify a new Patent being granted.

Yes; they often operate as inconveniences to trade.

In the negative,—

Inconvenience is more likely to accrue to inventors than to the public.

Foolish Patents injure those only who take them out.

No, for Patents are novelties introducing conveniences for the public advantage.

No inconvenience would result from the mere multiplicity of Patents with clearly defined titles, and rights strictly limited to what the titles embrace.

The inconvenience is not from the mere number of titles, but from maintaining old and useless Patents; the remedy being the repeal of patents unworked for two or three years.

11. Do you think it expedient that Patents should be granted to importers of foreign inventions?

Total replies 12, of which seven are affirmative, four negative, and one undeclared.

The statements in connexion with the affirmative are,—

Yes; if the article is manufactured under a Patent abroad.

Yes; for Patents so granted and now worked in this country are to us a source of national wealth, as they also reward the inventor.

Importers benefit the country as much as inventors, in consequence of the many valuable inventions brought into and worked by them in this country.

In the negative,—

Importers, not being inventors, should not be entitled to a Patent.

Not to importers. The French law, which requires the invention to be carried out, and the articles made in the country, is, on this point, preferable to our English law.

Not unless the invention has been communicated to the importer for that purpose.

No. There is no merit in mere importation of another person's invention; the importer has no property therein, and, therefore, deserves no privilege.

12. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees? Total number of replies 11, of which eight are affirmative and three negative.

In the affirmative the statements are,—

Yes; especially as Patents are granted to Englishmen in many foreign countries.

To encourage foreigners to bring their inventions to us. Foreigners compelled by themselves or agents to manufacture the articles, ought not to be deprived of the power to take out Patents.

On condition that there should be a nominee or agent in England.

Yes; it matters not where the inventor resides, if the subject of his Patent be worked in England, and benefit us.

Yes, upon condition that the foreigner puts the invention into operation in this country, and does not import articles made abroad according to the invention.

Yes. Any invention by which public benefit would accrue ought to be protected, irrespective of nationality.

In the negative,—

No; unless compelled to grant licences to English manufacturers.

No, for the patentees would be beyond the jurisdiction of this country.

13. Is it expedient to make any, and if so what alterations in the law relating to prolongations and confirmations?

Total number of replies 11, of which seven are affirmative, two negative, and two undeclared.

In connexion with the affirmative the following statements are made,—

The abolition of prolongations; and as to confirmations, a tribunal without appeal.

A fixed limit of a term of fourteen years for Patents would leave patentees little to complain of. At present, however, many patentees who have amassed large sums of money by their monopoly seek to renew it to the injury of the public.

A simple and less expensive method of obtaining prolongations.

Except in very extreme cases no Patent should be prolonged beyond the term of 14 years.

In many cases great injustice is done by the prolongation and confirmation of Patents. The decision in questions under these heads should be referred to a board of three or five standing commissioners, or to the Lord Chancellor's confirmation, on the recommendation of such board.

If a board of examiners were appointed to inquire into the validity of a claim before a Patent was granted, the question as to confirmations would be virtually decided.

No statements are given in support or explanation of the negative.

14. Is it expedient to make any, and if so what alteration in the law respecting disclaimers and memoranda of alterations?

Total replies nine, of which three are affirmative, four negative, and two undeclared.

In connexion with the affirmative the following statements are made,—

Yes; the provisions of the law extend only to the final Specification. A patentee should be able to disclaim, and alter his Provisional Specification.

A Patent should lapse on the patentee finding that he had claimed too much, with power to take out a fresh Patent at reduced fees. This would be preferable to the present system of disclaimers and alterations.

If either are allowed, the time should be as limited as possible after taking out the Patent.

In the negative,—

No; the present mode does not work badly.

No; it is very dangerous to permit inventors (under colour of "disclaimer," or of memoranda of "alterations,") to mend a bad Patent, or to "effect" a grant for an invalid one by that process.

15. Should the present practice as to caveats be adhered to?

Three replies; one affirmative, one negative, and one undeclared.

(No statements are appended to the simple affirmation or negation.)

REPLIES of Mr. GEORGE JABET to the Committee on the Patent Law. (Commissioners' Series of Questions.)

1. Should the cost of obtaining Letters Patent be diminished or increased; if either, to what extent; and should the payment be made in one sum or by annual or other instalments?

I see no occasion to diminish or increase the cost.

The present mode of paying the fees appears to me sufficiently fair and reasonable. General laws cannot be made to accommodate special cases. The attempt to do so is the bane of modern legislation; and half the bad laws

spring from a consideration of hard special cases. All general laws, whether of God or man, must occasionally work special evil, and it is impossible, and therefore folly, to try to prevent it.

2. (1.) Does the present mode of obtaining Patents appear to you satisfactory? (2.) Is it your opinion that there ought to be a preliminary investigation of a more searching character, than that which at present takes place? If so, how should the tribunal be constituted, before which such investigation shall be conducted, and should the judgment of such tribunal be final?

(1.) Yes. I do not think it much matters how they are obtained. (2.) Certainly not. No decision of any tribunal on the merits of an untried Patent could be satisfactory. It would put its imprimatur on ingenious but useless inventions, sanction absurdities, and condemn valuable inventions. The only satisfactory tribunal is the public reception of the Patent after publication.

3. Should the investigation be *ex parte*, or public, and subject to opposition? (See above, No. 2.) Should the present practice as to caveats be adhered to?

A caveat, I think, is only taken out by a patentee fearing interference with his Patent, and is just and useful. The hearing of the parties on the caveat I would remit to the tribunal proposed under the head of No. 7.

4. Have you reason to suppose that public inconvenience is caused by the multiplicity of Patents?

I dare say it sometimes is; but on the whole, and far exceeding any occasional inconvenience, the public is benefited by the facilities for obtaining, and consequent multiplicity of patents.

5. Do you consider that Patents ought to be refused on the ground of the trifling and frivolous nature of the inventions for which they are claimed?

Certainly not. Let the patentee who takes out trifling and frivolous Patents suffer. It is his loss, if he incurs expense in bringing out a useless and frivolous, and therefore nonpaying article. I consider an article which pays, however trifling and frivolous it may appear, is useful to the public, or the public would not buy it, and is entitled to a Patent if new.

6. Should greater facilities be provided for the repeal of invalid Patents?

The only object of this would be to prevent the expensive litigation attending the contest of a Patent; but, unless some tribunal different from the present trial at *nisi prius* is adopted, I do not see that anything would be gained. If the validity of a Patent is to be tried by the existing tribunals, it would not differ from the present mode of contesting a Patent. I think, however, such a tribunal might be advantageously constituted, and to such tribunal any party, showing that he was aggrieved, might apply for the repeal of a Patent on the ground of invalidity.

7. Do you consider that any change should be made in the tribunal appointed to try actions and suits instituted by patentees?

Yes.

The multiplication of tribunals is an evil; but considering that a very absurd Act of last Session appointed a judge with nothing to do, under the Registration of Titles Act, he might perhaps be usefully employed by sitting as a Judge of Patents. I certainly think that a change is desirable. At present, to such a length do Patent trials often run, the public is much inconvenienced, justice hurriedly slurred over to get through the assizes, or causes left untried, because a "heavy Patent case" is down for trial. Moreover, judge, counsel, and jury are frequently all alike incompetent to deal with the scientific questions which arise; and scientific men, relying on their ignorance, are very careless, to say the least of it, as to their evidence. It is notorious that half a dozen scientific men, can always be found to swear against half a dozen other scientific men. This would not be the case if the forum before which they appeared was competent to deal with the subject. Counsel do not try to bamboozle the judges with bad law. The Judge of Patents should have power to decide questions of law and fact without a jury; but the litigant parties should be entitled to have a jury, and the judge should have power to summon a jury, whether the parties wished it or not, or to nominate three or more scientific men to sit with and advise him; in the latter case he alone to give judgment.

8. Should the granting of licences, in your opinion, be made compulsory, and can you suggest any practicable method by which this should be done?

No. The principle of granting Patents is by these questions apparently admitted. That being so, I do not see what right you have to restrict the patentee in the working

of his Patent. The idea of compulsory licences originates, I believe, in the insane attempt to cure certain alleged hard cases. Besides, I consider it would be quite impracticable, unless you return to very barbarous legislation, and affix the terms on which the licences shall be granted. Unless this is done, the patentee has only to affix a high and prohibitory royalty and set the compulsory licence at defiance. It would be like the dog-show regulation that every exhibitor shall sell his dog at the price affixed.

9. Do you think it expedient that Patents should be granted to importers of foreign inventions?

Certainly; yes. As at present.

10. Do you think it expedient that Patents should be granted to foreigners residing abroad, or to their nominees?

I think yes, in principle, but there would be difficulties in practice which would probably render it impossible. How are you to get security for the costs of contesting such Patents. I consider, however, such Patent should be liable to the same conditions as a Patent granted to a native, viz., that it is the patentee's own invention, and new.

11. Is it expedient to make any, and if so what alterations in the law relating to prolongations and confirmations.

I have no alterations to suggest, except in the tribunals for granting them, which should be undertaken by the "Judge of Patents" (No. 7).

12. Is it expedient to make any, and if so what alterations in the law respecting disclaimers and memoranda of alterations?

I am not sufficiently acquainted with the practice of disclaimers and alterations to answer this question satisfactorily, but I think no disclaimer or alteration should be allowed which materially affects the Patent, but the patentee should be allowed to petition the "Judge of Patents" for a repeal of his Patent, and to take out a new one.

There is another question, and, I think, an important one viz., whether a patentee should be allowed to let his patent lie dormant, not giving the public the benefit of it—the very ground on which the Patent was granted—but holding it *in terrorem* over other inventors. After the expiration of, say 12 months, a patentee, not giving the public the benefit of his invention, should be liable to be called upon to show cause before the "Judge of Patents" why his Patent should not be repealed; and unless he could show that he was taking active measures to bring it into operation it should be repealed; so, when a Patent had ceased to be used, it should in like manner be liable to be repealed.

In addition to the replies to the series of Questions issued by direction of the Council, three General Communications on the Patent Law have been forwarded to the Committee.

In the first objections are urged to the present state of the law relating to Patents, on the ground, 1st, of the minute particulars required in Provisional Specifications. 2nd, because Patents are too easily obtained. 3rd, because the inventor pays for a protection which he does not get, except at the risk of legal processes, entailing on him further and often ruinous expenses. The remedy suggested is, a board apart from the ordinary courts of justice, which shall decide all questions relating to Patents.

The second communication takes objection to the constitution of the commission for granting provisional protection, to its being composed of the law officers of the Crown, and suggests the substitution for them of a board of three or five permanent and paid commissioners, in whom shall be vested the power of granting Patents and generally of administering the law relating to Patents.

The third communication refers specially to the subject of "unused" Patents and the abuses resulting from them. The writer observes:—

"I am for the most part content with the present Patent Law, and the only suggestion which I think it necessary to throw out is one that arises out of the sixth question, and applies to persons who have obtained Patents but who do not use them. In such cases I am in favour of the repeal not only of invalid but also of obsolete Patents. The sixth question does not touch the latter class in distinct terms, but I hope the attention of the commissioners will be directed to them. I attach importance to this, because I am aware of the existence of a dishonourable practice of buying up *unused* Patents with a view to the greater protection of some analogous invention, and also with the design of combining portions of old inventions with something new which the inventor would not consider of sufficient merit to be patented for its own sake. I therefore, in order to repress these practices, advocate the repeal of every Patent which is not used within a reasonable time after it has been granted. I do not suppose the practices I have mentioned prevail very extensively, but I know of instances where great oppression of rival manufacturers have been attempted under cover of them. The operation is this:—a man having a Patent brings out an article widely different from his Specification, and then sues some one else for infringement, bringing to his aid on the trial an obsolete Patent which is supposed to bear upon it. This is a course of proceeding that I think your chamber would by all means wish to discourage, and I shall be glad if my hint proves of any service in that direction."

APPENDIX No. III.

MEMORANDUM of the SUGAR REFINERS at LIVERPOOL.

Under assimilated duties, there ought, for the maintenance of competition on equal terms, to be equal incidence of all burdens imposed by authority of the State.

If, for any invention, French producers of refined sugar should have only royalties of one per cent. *ad valorem*, while the British should have to pay royalties of five per cent.,* it is obvious the Patent Law may in effect impose on the latter a most onerous *differential duty*.

The law contains no provision for uniformity of charges, either between one licensee and another, or between the licensees in one country and those in another, nor any protection against the injury which the want of such provision necessarily inflicts.

Something has lately been said in favour of an international Patent system, such as would contain a correction of evils that are now inflicted by the existence of separate systems for each country. On

the part of the sugar trade it is now submitted that the conference at Paris, for a common understanding as to sugar duties, may well embrace a common arrangement as to future *Patents affecting sugar*.

Such an arrangement, it is obvious from what has already been stated, is *requisite* to put the countries that will be combined in the arrangement of duties on a fair footing in their mutual *trade in sugar*, and it can easily be effected. All that is wanted is the introduction into all sugar Patents of the following conditions and promises or such like:—

The Patent shall confer Patent privileges in each of the united countries.

Any person desiring to use the patented invention may do so upon undertaking to pay such royalty as a mutually appointed referee may affix, having regard to what other licensees are paying.

At the end of three years the Patent shall be valued by competent experts.

As soon as the royalties paid by the several licensees shall amount to the valuation so made the Patent rights shall lapse, and the public may use the invention free (of charge). Thus, if the valuation were

* And charges as heavy; differences as extraordinary are quite compatible with, and there is reason to fear quite common under the actual law.

1,000*l.* or 10,000*l.*, receipts for royalties to this amount would, on being submitted to the proper tribunal, or *books*, which the Patentee should be bound to keep and produce to the tribunal, entitle persons interested to demand that the Patents shall be declared no longer in force.

The above system would secure, on the one hand, an equitable recompence to the inventor, and on the other, would free manufacturers from prohibition to use an invention, of which their rivals in other countries, or even in their own, may be gaining the benefit (possibly free of charge), and from the danger of being subjected to unreasonable and insupportable charges for use.

If we were not so familiar with the monopoly which constitutes the reward of inventors, and the punish-

ment of others under the present system,* we would be surprised that it could have been tolerated so long.

If called on at this day to devise a system, and that system were not to involve remuneration from the exchequer of the nation, we would naturally think of some such project as the above, which certainly is both a fair and practicable one, and one amply liberal.

A strong inducement to adopt the project is its introducing, exhibiting, and testing that great desideratum, internationalism in the treatment of inventions.

* "System," it hardly is, for system implies wisdom more than it exhibits.

APPENDIX No. IV.

MEMORIALS to the COMMISSIONERS.

(1.)—MEMORIAL of the BRISTOL CHAMBER OF COMMERCE.

To Her Majesty's Commissioners for the Consideration of the Laws relating to Patents.

The Memorial of the Bristol Chamber of Commerce.

SHOWETH,

THAT your memorialists have had brought under their notice cases in which manufacturers have suffered great injustice in the shape of protracted litigation and heavy expense, without wilful default of their own, for alleged infringements of Patents, the greater portion of the parties proceeded against being merely users of machines.

Your memorialists refer to cases which have recently been under consideration in the Courts of Law, and especially to that of "*Foxwell v. Bostock*," some particulars relating to which are appended to this memorial.

Your memorialists respectfully suggest that the proper remedy for such grievances would be such an alteration in the law as should debar a patentee from taking proceedings for any infringement of his Patent until he shall have obtained the certificate of an officer appointed for the purpose specifying his Patent; and in any case of litigation the patentee should be required to establish his right in point of law, in the manner indicated by the Lord Chancellor in the case of "*Foxwell v. Bostock*," before proceeding for damages on the facts.

Your memorialists would further respectfully submit that the present state of the law imposes great hardships on the mere users of machines, who in most cases are entirely ignorant of the rights of patentees; and your memorialists therefore would respectfully suggest that the patentee should be debarred from bringing any action against a *user* of a machine, but that the user should be compelled to give information as to where the machines are obtained, under penalties, as provided in the "*Trades Marks Protection Act, 1862*."

And your memorialists consider also that proper provision should be made for giving publicity to Patents.

Signed on behalf of the Bristol Chamber of Commerce.

GEO. WILLS,

52, Queen Square, Bristol,
2nd June 1864.

Chairman.

The Case of Foxwell v. Bostock.

Recently tried before the Lord Chancellor, is thus described in a pamphlet published by Mr. A. V. Newton (page 26):—

"It was a trial preliminary to a long course of threatened litigation, to test the validity of Mr. Jenkins' sewing machine Patent, dated 16th October 1852. The Patent had become vested in Mr. Daniel Foxwell, who after a course of three trials at law instituted against a well known sewing machine manufacturer for compensation for an alleged infringement of this Patent, succeeded in driving him into a compromise whereby the sum of 4,250*l.* was paid in liquidation of all demands, and including a free licence to work the Patent for the remainder of the term. Encouraged by this success, Mr. Foxwell, through his solicitor, apprized the trade of his intention to levy royalties on the users of all needle and shuttle machines other than those manufactured by his licence; and failing to bring all those advertised to his terms (*viz.*, a payment of 5*l.* on every machine used before the 20th of June 1863, and 2*l.* on every machine subsequently brought into use), he filed bills in Chancery against 134 alleged infringers. Application was made on behalf of 77 defendants to Vice-Chancellor Kindersley in November last for an order to compel the plaintiff to select one suit and carry it to a hearing, so as to determine the validity of the Patent before calling on the remainder of the defendants to put in answers to the several bills. The Vice-Chancellor, not being able to see how the putting in of an answer could affect or prejudice any one defendant, refused the application; whereupon the application was renewed before the Lord Chancellor. His Lordship, perceiving the importance of consolidating the suits, made an order to that end, directing that the machines complained of as infringements should be arranged in classes, so that one trial might dispose of a group of cases. This having been done, his Lordship ultimately determined first to try the validity of the Patent irrespective of the questions of infringements which might follow.

"The proceeding, being a novel one, was from this and other causes both slowly and irregularly conducted, the course of the evidence being twice interrupted to allow counsel to argue points which pressed upon the mind of the Court. Yet, notwithstanding the time thus consumed, a judgment was obtained, which must be final, unless carried to the last Court of Appeal, the House of Lords, establishing at less expense than would have been incurred by a trial at

law of the same duration the defendant's case, viz., that the Patent was void at law by reason of the insufficiency of the Specification. Had the matter not been thus summarily dealt with actions for infringement might have been instituted, and verdicts obtained by the plaintiff, only to be set aside by the full Court or

the Court of Appeal, finding, after listening for days to the subtle arguments of counsel, what the Lord Chancellor in the first stage of the litigation arrived at,—that the Patent was void, and the claim of the patentee against the defendants perfectly untenable."

(2.)—MEMORIAL of the CITY of GLASGOW CHAMBER OF COMMERCE AND MANUFACTURES.

To Her Majesty's Commissioners for the Consideration of the Laws relating to Patents.

The Memorial of the Chamber of Commerce and Manufactures in the City of Glasgow, incorporated by Royal Charter,

SHOWETH,

THAT your memorialists have had brought under their notice cases in which manufacturers have suffered great injustice in the shape of protracted litigation and heavy expense, without wilful default of their own, for alleged infringements of Patents, the greater portion of the parties proceeded against being merely users of machines.

Your memorialists refer to cases which have recently been under consideration in the Courts of Law, and especially to that of "*Foxwell v. Bostock*."

Your memorialists respectfully suggest that the proper remedy for such grievances would be such an alteration in the law as should debar a patentee from taking proceedings for any infringement of his Patent until he shall have obtained the certificate of an officer appointed for the purpose, specifying his Patent; and in any case of litigation the patentee should be

required to establish his right in point of law, in the manner indicated by the Lord Chancellor in the case of "*Foxwell v. Bostock*," before proceeding for damages on the facts.

Your memorialists would further respectfully submit that the present state of the law imposes great hardships on the mere users of machines, who in most cases are entirely ignorant of the rights of patentees; and your memorialists therefore would respectfully suggest that the patentee should be debarred from bringing any action against a *user* of a machine, but that the user should be compelled to give information as to where the machines are obtained, under penalties, as provided in the "Trades Marks Protection Act, 1862."

Signed on behalf of the Chamber of
Commerce and Manufactures in the
City of Glasgow.

JNO. McEWEN,
Vice-President.
J. S. FLEMING,
Secretary.

Glasgow,
16th June 1864.

APPENDIX No. V.

OBSERVATIONS on the CONSTITUTION of the COURT for the TRIAL of PATENT CASES, addressed to the COMMISSIONERS by the Right Honourable Sir WILLIAM ERLE.

In order that trials relating to Patents may be made more convenient and effective, it is suggested, for the consideration of the Commission, that in all suits wherein the validity or the infringement of a Patent shall be in issue, the decision of such issue shall be made matter of judicial cognizance, to be decided by the Judge, and that such Judge shall be empowered to decide each disputed question of fact, either alone, or with assessors' advice, or by the aid of a jury, as he shall think fit, and that subject to this alteration the jurisdiction of the existing tribunals shall continue.

This change would in many suits make only a small addition to the duty which the Judge, as the law now stands, ought to perform; for the construction of written instruments is for the Judge, when the surrounding facts bearing on that construction have been either admitted or found by the jury, and the Specification of a Patent is a written instrument within this rule.

In construing the Specification the Judge ought to know what, in the language of the statute, is "the new mode of manufacture," for which the Patent was granted, that is, *what is the subject of the Patent*.

In acquiring this knowledge he must acquire nearly all the knowledge that is needed for deciding the issues on the utility, the novelty, and the infringement.

The subject of a Patent is a very complex idea, not easily defined, but it may be described as follows:—It is an Invention of means for the attainment of some useful end. Invention expresses that an advance has been made beyond the boundary of knowledge as it existed before the Patent was granted; and the Inventions for which Patents have been granted seem to consist either of *mechanical means for applying force to matter, or of chemical means for compounding and resolving substances, or of a combination of such mechanical and chemical means so applied so as to attain an useful end*.

For example, Lister patented mechanical means for the end of separating sliver from noil.

Heath patented chemical means for the end of fusing manganese in a crucible.

Forsyth patented mechanical and chemical means for the end of firing guns.

In disposing of the questions concerning Patents, the relation of the means to the end, or, as it is sometimes called, of the process to the purpose, should be constantly borne in mind as the most important element in the subject of a Patent.

Invention in most cases begins with the idea of the advantage, which is the end to be attained, and it is finished with the Specification of the means for attaining that end. In deciding whether the Invention is new or has been infringed, the inquiry is whether the same end which is attained by the means comprised in the Patent has been attained by other persons by the same or like means, that is, by mechanical or chemical equivalents.

Upon this inquiry the sameness of the end can be more clearly perceived than that degree of likeness in the means which amounts practically to identity, and on every trial the main contention lies in settling whether the means for attaining the same end, in appearance different, are in substance the same.

Lister's Patent may be referred to as an example. His means were an oscillating arm carrying a comb taking up and laying down a tuft of wool; his end was separation of sliver from noil.

Want of novelty was objected, by reason that the motion of the comb on the oscillating arm taking up a tuft of wool attained the same end which Heilman had attained by nippers, and although the comb was very unlike the nippers to the eye, yet when they were considered in relation to the end attained thereby, they were thought to be equivalent means for the same end, and Lister made a Disclaimer.

Leather used a revolving drum with a moving comb to attain the same end as Lister attained by

a comb on an oscillating arm, and although the oscillating arm was very unlike the revolving drum to the eye, yet when they were considered in the relation of means to an end they were found to be equivalent means for the same end, and to be an infringement.

In construing a Specification a Judge has to say what is the alleged discovery of means for an end which it contains. To do this he ought (as above mentioned) to understand what was the state of knowledge before the alleged discovery was thus used, then what is the end attained by the specified means. When this has been done, and the Judge sees clearly what is the subject of the Patent, it follows that he has approached to the knowledge required for deciding on novelty and infringement; but if each of these issues is for the jury, they have to learn from the Judge what is his idea of the plaintiff's Patent, and compare with that the idea they form of the evidence of prior use and infringement.

The issue of utility is scarcely worth mention, as it is not often the subject of contest, but if that question is raised it is also in effect answered as soon as the subject of the plaintiff's Patent is understood.

As to the application of the proposed alteration of the law to practical use: Upon the trial of either of these issues [by the Judge, if the question arises in the class of mechanical Patents, a model or diagram, when understood, would dispose of questions of infringement and of prior use, and provision might be made for ascertaining and furnishing to the Judge correct models or diagrams, and explaining their mechanical effect with the aid of an expert.

If the question arises on the class of chemical Patents, provision might be made in an analogous way for ascertaining and explaining the chemical process, and so likewise where the subject of the Patent combines both chemical and mechanical processes.

If these issues were all for the Judge each might be tried separately, and the evidence might be confined to the point, and the intentional confusion, which is a frequent resource for the party in the wrong, might be excluded, and failure by reason of the disagreement of the jurymen avoided.

Notwithstanding a well-founded belief that juries decide questions of fact better than any substitute that has ever been proposed, still the complexity of the issue, and the intricacy in which the respective duties of Judge and jury are blended together in suits on Patents, make these issues an exception to the general rule, and raise a presumption that the suggested alteration would be an improvement.

Subject to this proposed alteration, the legal tribunals at present established may rightly be thought to have the best qualities which experience can offer for administering the law. A tribunal is good in proportion as it is adapted to secure correctness in deciding questions both of fact and law, notwithstanding any miscarriage on the part of the men constituting the Court which tries any case, whether Judges or jurymen.

The inference of fact from the evidence adduced is before these Courts to be made by the jury with a direction on the law from the Judge. This inference of fact is subject to review by motion for a new trial before a full court, upon which motion the Judge who tried the case is either present or can be consulted.

The rule of law laid down by the Judge to the jury as the rule to which their inference of fact is to be applied is subject to review before the same Court, and afterwards before the two Courts of Appeal. These are the securities by which this institution is adapted to effect the desired object, without being dependent on the personal qualities of the men who happen to have a part to discharge in that decision.

Before changing this institution, and severing the administration of the law relating to property in Patents from the rest of the law, and consigning it to a single Judge, there are some objections to that course which may be worth consideration.

1st. The law of property is in some sense an organic whole, and one litigation may require a comprehensive knowledge of the whole law. For instance, if the assignees of a bankrupt patentee sue the executors of a deceased licensee for nonpayment of the royalty due according to contract for the licence, the defence may require a decision upon the part of the law which relates to bankruptcy, and on the part which relates to the administration of assets, and on the part which relates to the avoidance of contracts for fraud or want of consideration, as well as a trial whether the Patent in question was void. The legislature creating such a new tribunal, as has been suggested, must either give jurisdiction over all parts of the law arising incidentally in a suit in which the validity of a Patent is disputed, or provide for the ordinary tribunals remitting to the new Court any question relating to the Patent to be separately disposed of, and for proceeding with the rest of the suit after receiving back an answer to that question, and each alternative is inconvenient.

2ndly. Where a single Judge decides both fact and law it is difficult to create an effectual appeal. If an appeal is attempted on matter of law, every proposition of law, when applied, assumes a state of facts to which it is applied, and every application of a proposition of law by a Judge who decides on fact assumes that he finds the facts to exist to which the proposition of law correctly applies; under these circumstances it is not easy to find a ground of appeal. Further, if the Court of Appeal has to review the decision of fact, a written statement of oral evidence, without conference with the Judge who tried the case, gives very defective means for estimating what is the proper inference from the facts adduced. Further, if the same Court of Appeal has to decide what facts ought to be inferred from the facts deposited to, and at the same time what is the law applicable to the facts so inferred, if it differs from the Court below on the inference of fact, it is a Court of the first instance for the law which it applies to that inference, and the appeal in law would be taken away. Furthermore, the severed department of law would be subject, during a judicial life, to the control of one mind sitting alone without the advantage of healthful collision with other minds equal in judicial degree, and there would be no rotation of Judges enabling the suitors to exercise some degree of choice.

3rdly. Although there may be now a delay of other causes by protracted trials of Patent cases, still the remedy, by eliminating for future times cases involving questions of science from the jurisdiction of the Superior Courts, would introduce a great evil; the Judges of the Superior Courts have to decide on every interest depending on rights either to property or to personal security, and are presumed to be competent to perform every part of this duty. An alteration of an ancient institution, sanctioned by experience, on account of any peculiarities in respect either of the quantity or the subjects of litigation prevalent at a particular period, would be to sacrifice the permanent to the ephemeral.

The Courts at present established are probably sufficient for all real litigation; their time is sometimes consumed by actions which either ought not to be brought, or to be brought elsewhere; this might be checked. It may be that other relief is required to dispose of the increase of litigation; but the objections to an appropriation of one branch of the law to an isolated Judge for life appear to be grave, and these are some reasons for that opinion.

W. ERLE.

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